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**VIA HAND-DELIVERY**

February 23, 2016

New Hampshire Site Evaluation Committee  
Pamela G. Monroe, Administrator  
21 South Fruit Street, Suite 10  
Concord, NH 03301

**Re: SEC Docket No. 2015-05: Public Service Company of New Hampshire d/b/a  
Eversource Energy and New England Power Company d/b/a National Grid: Joint  
Application for a Certificate of Site and Facility for the Merrimack Valley  
Reliability Project**

Dear Ms. Monroe:

Enclosed for filing in the above-referenced Docket, please find an original and one copy of the following:

- 1) Applicants' Uncontested Motion to Partially Waive Site 301.05(b)(8)(b);
- 2) Applicants' Partially Contested To Motion to Partially Waive Suite 301.08(c)(2); and
- 3) Applicants' Partially Contested To Motion to Partially Waive Site 301.03(c)(3)-(5).

Please contact me directly should you have any questions.

Sincerely,

Adam M. Dumville

AMD:slb  
Enclosure

cc: SEC Distribution List

McLane Middleton, Professional Association  
Manchester, Concord, Portsmouth, NH | Woburn, MA

McLane.com

**THE STATE OF NEW HAMPSHIRE**

**SITE EVALUATION COMMITTEE**

**SEC DOCKET NO. 2015-05**

**JOINT APPLICATION OF NEW ENGLAND POWER COMPANY  
D/B/A NATIONAL GRID &  
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
D/B/A EVERSOURCE ENERGY  
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANTS' UNCONTESTED MOTION TO PARTIALLY WAIVE SITE  
301.05(b)(8)(b)**

NOW COME New England Power Company d/b/a National Grid ("NEP") and Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") (collectively the "Applicants") in support of their Joint Application for a Certificate of Site and Facility For the Construction of a New 345 kV Electric Transmission Line in Southern New Hampshire (the "Project"), by and through their attorneys, McLane Middleton, Professional Association, and respectfully submit this request pursuant to Site 302.05 for a Waiver of New Hampshire Code of Administrative Rules Site 301.05(b)(8)(b). In support of their Motion, the Applicants state as follows:

**I. INTRODUCTION**

The Site Evaluation Committee ("SEC") recently adopted new rules in December 2015 directing applicants to meet specific criteria with regard to photosimulations submitted as part of the visual impact assessment. Specifically, Site 301.05(b)(8)(b) requires that "Photosimulations shall be printed at high resolution at 15.3 inches by 10.2 inches, or 390 millimeters by 260 millimeters."

As part of their Joint Application, the Applicants submitted a visual impact assessment with photosimulations measuring 15.2 inches by 8.6 inches. To require the Applicants to strictly comply with the new rule and reformat and reprint all of the photosimulations would be unnecessarily burdensome for the Applicants and would not provide the Committee with any additional meaningful information to inform their decision about whether to issue a Certificate of Site and Facility. In their current form, the photosimulations properly represent the size of the actual structures. Once reformatted and reprinted, the size of the actual structures in the photosimulations and the horizontal field of view would not change. Additionally, reformatting the images would not leave sufficient room for the information about the images to be included within the lower margin of the standard 11 inch by 17 inch sheets on which the images are printed.

The Applicants hereby request a waiver of the printing requirements set forth in 310.05(b)(8)(b) primarily because it would be onerous to reformat and reprint the photosimulations and the purpose of the rule is already satisfied by submitting the photosimulations measuring 15.2 inches by 8.6 inches.

## **II. DISCUSSION**

The Committee's rules provide that the SEC shall waive any of the provisions of this chapter, except where precluded by statute . . . upon request by an interested party, if the committee or subcommittee finds that:

- (1) The waiver serves the public interest; and
- (2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.

Site 302.05(a). To determine whether the rule satisfies the public interest, the committee "shall waive a rule if: (1) Compliance with the rule would be onerous or inapplicable given the

circumstances of the affected person; or (2) The purpose of the rule would be satisfied by an alternative method proposed.” Site 302.05(b). As explained below, strict compliance with the newly adopted photosimulations printing rules is onerous and excessively burdensome and the purpose of the rule will be satisfied by an alternative method.

**A. Printing photosimulations at 15.3 inches by 10.2 inches**

The existing photosimulations included in the visual impact assessment measure 15.2 inches by 8.6 inches and are printed on 11 inch by 17 inch paper. This image size presents an only slightly smaller vertical field of view and provides room for photo information to be presented within the lower margin of the sheet on which it is printed. As discussed below it is impractical and onerous to require the Applicants to reformat and reprint each of the photosimulations included in the visual impact assessment to comply with the new rules. In addition, the purpose of the rule is satisfied by providing the photosimulations in their current form.

The existing photosimulations already provide accurate representations of the size of the actual structures. Requiring the Applicants to reformat and reprint the photosimulations would not change the size of the structures, nor would it reveal more of the right-of-way or the surrounding landscape within the horizontal field of view. Rather, the only result would be that more of the immediate foreground of the image would be visible. Site 301.05(b)(8)(a) requires that photosimulations shall be taken so as to “avoid if feasible showing any utility poles, fences, walls, trees, shrubs, foliage, and other foreground objects and obstructions.” Requiring the Applicants to reformat the photosimulations would generally only reveal more pavement or roadside vegetation in the foreground of the images.

A waiver of this rule will not disrupt the orderly and efficient resolution of matters before the Committee. Providing reformatted photosimulations would not add any additional pertinent information and would, in fact, make the Committee's task in analyzing the visual impact assessment more difficult. The Applicants have found that reformatting the photos to the size specified in the new rules would require all of the information currently presented within the lower margin of the page to be removed. This information includes, but is not limited to, the location of the photo, the area of the photo and the conditions under which the photo was taken. All of this information would have to be moved onto the photo itself or to a different page making the Committee's task in assessing these photosimulations more difficult. Placing the information within a text box on the photo would present a distraction to the Committee. Alternatively, rather than having all of the information about each image attached to the image itself, the Committee would have to find this information on a separate sheet and then cross-reference it back to the image itself.

### **III. Conclusion**

Based on the above, the Applicants respectfully request that the SEC grant a waiver of Site 301.05(b)(8)(b). The existing photosimulations included as part of the visual impact assessment already include sufficient representations of the size of the actual structures, which is the purpose of the photosimulations. Requiring the Applicants to reformat and reprint the photosimulations to comply with the new rules would be burdensome, would not provide any new or useful information to the Committee, and would not further the purpose of the rules. The waiver will not disrupt the orderly and efficient resolution of this proceeding.

Both Counsel for the Public and Intervenor Huard take no position on this motion.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Find that waiver of the photosimulations requirements found in Site 301.05(b)(8)(b) serves the public interest;
- B. Find that a waiver will not disrupt the orderly and efficient resolution of matters before the subcommittee; and
- C. Grant such further relief as requested herein and as deemed appropriate.

Respectfully Submitted,

New England Power Company and

Public Service Company of New Hampshire

By its attorneys,

McLANE MIDDLETON  
PROFESSIONAL ASSOCIATION

Dated: February 23, 2016

By: 

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Certificate of Service

I hereby certify that on the 23<sup>rd</sup> of February, 2016, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.

  
Barry Needleman

**THE STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**SEC DOCKET NO. 2015-05**

**JOINT APPLICATION OF NEW ENGLAND POWER COMPANY  
D/B/A NATIONAL GRID &  
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
D/B/A EVERSOURCE ENERGY  
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANTS' PARTIALLY CONTESTED TO MOTION TO PARTIALLY WAIVE  
SITE 301.08(C)(2)**

NOW COME New England Power Company d/b/a National Grid (“NEP”) and Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH”) (collectively the “Applicants”) in support of their Joint Application for a Certificate of Site and Facility For the Construction of a New 345 kV Electric Transmission Line in Southern New Hampshire (the “Project”), by and through their attorneys, McLane Middleton, Professional Association, and respectfully submit this request pursuant to Site 302.05 for a Partial Waiver of New Hampshire Code of Administrative Rules Site 301.08(c)(2). In support of their Motion, the Applicants state as follows:

**I. INTRODUCTION**

The New Hampshire Legislature amended RSA 162-H:7 in 2014 to add a requirement that an applicant for a Certificate of Site and Facility for an energy facility “[d]escribe in reasonable detail the elements of and financial assurances for a facility decommissioning plan.” RSA 162-H:7(g). The Applicants addressed this requirement in Section 301.03 (h)(5) of their Joint Application (at page 61). Simultaneously with this Motion, the Applicants are providing additional information regarding facility decommissioning that supplements the Joint

Application to conform to the readopted rules of the Site Evaluation Committee (“SEC” or “Committee”). *See* Joint Applicants’ Supplement #3. On September 23, 2015, the SEC Subcommittee reviewing the Joint Application determined that it contained sufficient information for the Subcommittee to carry out the purposes of RSA 162-H. The SEC subsequently memorialized that determination by Order, dated October 5, 2015, formally accepting the Joint Application as complete.

The SEC recently adopted a new rule, Site 301.08(c)(2), in December 2015 directing applicants for all energy facilities to submit:

A facility decommissioning plan prepared by an independent qualified person with demonstrated knowledge and experience in similar energy facility projects and cost estimates; the decommissioning plan shall include each of the following:

- a. A description of sufficient and secure funding to implement the plan, which shall not account for the anticipated salvage value of facility components or materials;
- b. The provision of financial assurances in the form of an irrevocable letter of credit, performance bond, surety bond, or unconditional payment guaranty executed by a parent company of the facility owner maintaining at all times an investment grade credit rating;
- c. All transformers shall be transported off-site; and
- d. All underground infrastructure at depths less than four feet below grade shall be removed from the site and all underground infrastructure at depths greater than four feet below finished grade shall be abandoned in place.

The Applicants request that the SEC waive the requirement that the decommissioning plan be prepared by an independent qualified person as well as the content requirements provided in subsections (b) and (d), above.<sup>1</sup>

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<sup>1</sup> The Applicants are not seeking a waiver of Subsection (a) because they have satisfied this requirement – the Joint Application and the pre-filed testimony of Michael Ausere (PSNH) and Brian McNeill (NEP) already describes in



As provided in the Joint Application and pre-filed testimony of Michael Ausere and Brian McNeill, and as discussed herein, it is not anticipated that the Applicants will decommission the new 345kV 3124 Line. The Independent System Operator-New England (“ISO-NE”) has determined that the 3124 Line is needed in order for the electric transmission system to continue to operate reliably. Once constructed, the new 3124 Line will form an integral part of the electric transmission system and become a baseline element in ISO-NE’s planning studies. Transmission lines of this nature must remain operational and, thus, are typically rebuilt, as needed, and remain in service indefinitely. If, hypothetically, ISO-NE determined that the 3124 Line was no longer needed and the Applicants determined that the 3124 Line needed to be decommissioned, the cost of decommissioning would be available from the sources described in the pre-filed testimony of Michael Ausere and Brian McNeill and in accordance with a Federal Energy Regulatory Commission (“FERC”) approved transmission tariff.

Site 302.05 provides that the SEC shall waive a provision if it finds that a waiver serves the public interest and will not disrupt the orderly and efficient resolution of matters before it. The public interest is satisfied if a rule is onerous or inapplicable under the circumstances, or if the purpose of the rule is met by an alternative method.

The Applicants satisfy these standards and hereby request a partial waiver of the decommissioning details set forth in Site 301.08(c)(2). To the extent that the 3124 Line is decommissioned in the future, the Applicants have already submitted a description of the decommissioning plan in as much detail as is reasonable at this stage and are prepared to submit

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reasonable detail the sources and means by which the Companies would assure sufficient and secure funding to implement the plan. The Applicants are also not seeking a waiver of subsection (c) because the construction of the Project does not include the installation or addition of any new transformers, and therefore, the rule is not applicable.

a more detailed plan to the SEC for its review prior to any actual decommissioning of the 3124 Line.

## **II. DISCUSSION**

The Committee's rules provide that the SEC:

shall waive any of the provisions of this chapter, except where precluded by statute . . . upon request by an interested party, if the committee or subcommittee finds that:

- (1) The waiver serves the public interest; and
- (2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.

Site 302.05(a). To determine whether the rule satisfies the public interest, the SEC "shall waive a rule if: (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or (2) The purpose of the rule would be satisfied by an alternative method proposed." Site 302.05(b). As further explained below, strict compliance with the newly adopted decommissioning rule does not serve the public interest given the circumstances of this Project and the purpose of the rule will be satisfied by an alternative method. Moreover, granting the waiver will not disrupt the orderly and efficient resolution of this proceeding.

The Applicants request a waiver of the requirement that they hire an independent third-party to prepare the decommissioning plan for two reasons. First, the Applicants can satisfy this rule by an alternative method, namely by using their own highly trained and experienced personnel who are very likely the most knowledgeable and qualified to prepare any such plan. Requiring the Applicants to hire a third party would be an unnecessary expenditure of customer money and would not, therefore, be in the public interest.

Second, requiring that a decommissioning plan be prepared by an independent person at the time an application is submitted is impracticable and should be deemed inapplicable to the

circumstances of an electric transmission project built for reliability purposes. Unlike wind energy and other generation facilities, it is extremely rare for transmission owners to decommission and completely remove a 345 kV transmission line and related facilities that are needed for reliability purposes. As an electrical transmission system evolves to meet demands and changing conditions, ISO-NE, transmission owners and other stakeholders determine what transmission facilities should be built, upgraded and/or modified. Once a transmission line is constructed for reliability purposes, it becomes an integral part of the electric transmission system in the New England region that ISO-NE includes as an element in its studies. Thus, while it is not uncommon for existing high voltage transmission lines to be reconductored and refurbished, it is only under exceptional circumstances that they are removed completely. For this reason, there are no federal tariffs that require the preparation of decommissioning plans for such lines and transmission owners do not do so in the normal course of business, let alone several decades before any such decommissioning would reasonably be expected to occur. Under these circumstances, it is reasonable for the SEC to find that the requirement to hire an independent person to prepare a decommissioning plan at the time of application is inapplicable to reliability projects.

The Applicants have also supplemented their Joint Application with additional decommissioning information, which further satisfies the statutory requirement to describe in reasonable detail the elements of a facility decommissioning plan. The new rule Site 301.08(c)(2) does not expressly require applicants to provide a fully detailed decommissioning plan. However, to the extent that the SEC interprets its new rule to require such details now, the Applicants request a waiver from that requirement as well. Again, transmission lines that are built to ensure the continued reliability of the electric transmission system typically are

reconducted, refurbished or otherwise upgraded to meet the changing needs of the system and remain in-service for several decades. They are rarely decommissioned. Thus, the decommissioning information that the Applicants have provided is what is reasonably available at this time. A more detailed decommissioning plan for the 3124 Line cannot be developed now as it would need to take into account any physical changes to the ROW and to the lines located thereon that may have occurred over time as well as all applicable laws and regulations that exist at the time of decommissioning. The alternative and more practicable method of satisfying the purpose of this rule would be for the Applicants to submit a detailed decommissioning plan, to the extent required at the time of decommissioning, to the Committee pursuant to its authority under RSA 162-H:4, I (c) to monitor the construction and operation of the facility to ensure compliance with the terms and conditions of a certificate.

The Applicants also seek a waiver of Site 301.08(c)(2)(b), requiring the provision of specific types of financial assurance, because the purpose of this rule is satisfied by an alternative method. Specifically, the Applicants have demonstrated in their Joint Application and pre-filed testimony of Michael Ausere and Brian McNeill that each Applicant has the enduring financial strength and reliability to fund the cost of decommissioning the 3124 Line if and when that occurs. Furthermore, under FERC's Uniform System of Accounts, decommissioning is considered an asset retirement obligation. In accordance with FERC guidelines and Generally Accepted Accounting Procedures, the fair value of the liability associated with an asset retirement obligation is recorded once the company has the obligation and the cost is depreciated and recovered, subject to FERC approval, over the useful life of the asset. Thus, because the FERC-approved transmission tariff provides a satisfactory alternative mechanism for recovering

the cost of decommissioning of the 3124 Line, if it were to occur, separate financial assurance is not required and any such requirement should be waived.

Lastly, Site 301.08(c)(2)(d) requires that infrastructure at depths greater than four feet below grade be abandoned in place, otherwise be removed. The Applicants request that the SEC waive this rule as inapplicable. The Project will be built on an existing utility ROW that is owned in fee by the Companies or is controlled by them through perpetual easements. Unlike public roadways that can be put to several different public and private uses (e.g., water, sewer, gas, etc.), the ROW will be dedicated exclusively to utility use for the foreseeable future.

Moreover, complete removal of transmission infrastructure is unnecessary in an existing ROW and fully removing the infrastructure could potentially create more severe environmental impacts in certain locations. As the Project is constructed in an existing ROW, it may be more environmentally beneficial to leave the bottoms of transmission structure (the part of the transmission structure below grade) in place, especially if they are located in protected wetlands or other resource areas that may exist at the time of decommissioning. As part of the Applicants' request for a partial waiver, the Applicants will further submit a decommissioning plan, should the removal of the Project infrastructure be required, based on the ROW and the existing state and federal land use and environmental rules in existence at the time of the decommissioning.

The granting of these partial waivers will not disrupt the orderly and efficient resolution of the proceedings before the Committee. Indeed, given the information already provided by the Applicants in this proceeding, the SEC already has enough information to decide whether the Applicants have the requisite financial capability to construct and operate the Project.

### **III. CONCLUSION**

The Applicants have shown that requirements of Site 301.08(c)(2) are inapplicable under the circumstances and that the purpose of RSA 162-H:7, V(g) and the rule is satisfied by an alternative method. The Applicants have already described the elements of a decommissioning plan in reasonable detail at this stage, without having an independent person create a separate decommissioning plan. The Applicants will provide specific engineering and contractor information if and when the line is decommissioned. In addition, sufficient and secure funding of decommissioning is assured, without providing an irrevocable letter of credit, performance bond, surety bond, or unconditional payment guaranty executed by a parent company, because as described in the Joint Application and pre-filed testimony, the Applicants have sufficient financial strength and operate under a FERC-approved tariff that governs asset retirement obligations. Therefore, the Applicants respectfully request that the Committee grant a partial waiver of Site 301.08(c)(2).

Counsel for the Public takes no position on this motion and Intervenor Huard objects to this motion.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Find that partial waiver of the decommissioning rule serves the public interest;
- B. Find that waiver will not disrupt the orderly and efficient resolution of matters before the subcommittee; and
- C. Grant such further relief as requested herein and as deemed appropriate.

Respectfully Submitted,

New England Power Company and

Public Service Company of New Hampshire

By its attorneys,

McLANE MIDDLETON  
PROFESSIONAL ASSOCIATION

Dated: February 23, 2016

By: \_\_\_\_\_

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Certificate of Service

I hereby certify that on the 23<sup>rd</sup> of February, 2016, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.

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Barry Needleman

**THE STATE OF NEW HAMPSHIRE**

**SITE EVALUATION COMMITTEE**

**SEC DOCKET NO. 2015-05**

**JOINT APPLICATION OF NEW ENGLAND POWER COMPANY  
D/B/A NATIONAL GRID &  
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
D/B/A EVERSOURCE ENERGY  
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANTS' PARTIALLY CONTESTED TO MOTION TO PARTIALLY WAIVE  
SITE 301.03(c)(3)-(5)**

NOW COME New England Power Company d/b/a National Grid ("NEP") and Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") (collectively the "Applicants") in support of their Joint Application for a Certificate of Site and Facility For the Construction of a New 345 kV Electric Transmission Line in Southern New Hampshire (the "Project"), by and through their attorneys, McLane Middleton, Professional Association, and respectfully submit this request pursuant to Site 302.05 for a Waiver of New Hampshire Code of Administrative Rules Site 301.03(c)(3)-(5). In support of their Motion, the Applicants state as follows:

**I. INTRODUCTION**

The Site Evaluation Committee ("SEC") recently adopted new rules in December 2015 directing applicants for all energy facilities to submit:

- (3) The location, shown on a map, of property lines, residences, industrial buildings, and other structures and improvements within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property;
- (4) Identification of wetlands and surface waters of the state within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property, except if and to



the extent such identification is not possible due to lack of access to the relevant property and lack of other sources of the information to be identified;

(5) Identification of natural, historic, cultural, and other resources at or within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property, except if and to the extent such identification is not possible due to lack of access to the relevant property and lack of other sources of the information to be identified;

Site 301.03(c)(3)–(5).<sup>1</sup>

As part of their Joint Application, the Applicants identified all property lines, residences, industrial buildings, other structures and improvements, wetlands and surface waters, and natural, historic, cultural and other resources within the Project right-of-way (“ROW”) and adjacent to the Site. Based on the new rule, the Applicants, using the best available computer mapping and technology, have revised the Project maps—specifically, the Existing Conditions Maps, Appendix E of the Joint Application; Wildlife Habitat Land Cover Type Mapping, Appendix I of the Joint Application; and Community Resources Mapping, Appendix M of the Joint Application—to expand the identification of all the resources listed in Site 301.03(c)(3)–(5) to the entire geographic area shown on their Project Maps irrespective of individual property boundaries. To further expand the amount of area displayed on these maps would require varying the scale of the map continuously along the route or selecting a scale that would accommodate the largest abutting property, which would make the data effectively unreadable. In most instances, these efforts captured abutting properties and in some cases went beyond abutting properties; however, there are some large abutting properties whose boundaries extend beyond the edges of the Project maps. Requiring the Applicants to strictly comply with the rules and identify all resources on every single abutting property—no matter how large the property—

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<sup>1</sup> The Applicants understand that the SEC interprets these rules to require the identification of resources across the entire width or along the entire length of any abutting property, regardless of the distance from the Project.

would be onerous and would not provide the Committee with any additional meaningful information to inform their decision about whether to issue a Certificate of Site and Facility. In order to identify resources outside of the Project ROW, the Applicants would need to obtain the right to access the abutting properties from the landowners and conduct surveys within an area that is approximately three times the size of the Project ROW.

Accordingly, the Applicants hereby request a waiver, in part, of the identification and mapping requirements set forth in 301.03(c)(3)–(5) chiefly because of the impediments to gathering such information and the practical limitations on presenting the various categories of required information in a format and scale that is meaningful to the reader.

## **II. DISCUSSION**

The Committee’s rules provide that the SEC:

shall waive any of the provisions of this chapter, except where precluded by statute . . . upon request by an interested party, if the committee or subcommittee finds that:

- (1) The waiver serves the public interest; and
- (2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.

Site 302.05(a). To determine whether the rule satisfies the public interest, the committee “shall waive a rule if: (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or (2) The purpose of the rule would be satisfied by an alternative method proposed.” Site 302.05(b). As explained below, strict compliance with the newly adopted identification and mapping rules does not serve the public interest given the circumstances of a linear transmission Project, that compliance with the rule is onerous and excessively burdensome, and that the purpose of the rule will be satisfied by an alternative method.

**A. Identification of Property Lines, Residences, Industrial Buildings, and Other Structures and Improvements**

The original Existing Conditions Mapping already contains the residences, industrial buildings, and other structures and improvements within approximately 700 feet of the Project centerline as depicted on a scale at 1 inch to 400 feet. It is impractical and unreasonably burdensome to require the Applicants to map all property lines, residences, industrial buildings and other structures and improvements outside of the mapped area. For these reasons discussed in detail below, the Applicants respectfully request a partial waiver from this rule to the extent it requires the mapping of structures and improvements beyond what the Applicants provide in their Supplement #3.

**B. Identification of Wetlands and Surface Waters**

As part of the Joint Application, the Applicants identified all wetlands and surface waters within or adjacent to the site as displayed on Existing Conditions Mapping. In compliance with the old rule, the Applicants delineated the location and type of each waterbody within the site, defined as the Project ROW.

The recently adopted rule requires the Applicants to identify such wetlands and surface waters “within the site, on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property, except if and to the extent such identification is not possible due to lack of access to the relevant property and lack of other sources of the information to be identified.” Site 301.03(c)(4). “‘Abutting property’ means any property that is contiguous to or directly across a road, railroad, or stream from property on, under or above which an energy facility is located or proposed to be located.” Site 102.01. The rule contemplates requiring the Applicants to identify wetlands and surface waters on the entire abutting property, no matter the size.

To the extent possible, the Applicants identified wetlands and surface waters within 100 feet of the site through a combination of field delineation and interpretations of Project-specific contours and aerial photographs. Where delineation could not be performed due to lack of access to private property,<sup>2</sup> the Applicants estimated the area of wetlands and surface waters through other sources of information that identify wetlands and surface waters, namely aerial photographs, project-specific topographic information, United States Geological Survey (“USGS”) Topographical Survey maps and/or United States Fish and Wildlife Service (“USFWS”) National Wetlands Inventory (“NWI”) maps. These sources could produce only a high-level overview of existing conditions.

To comply with Site 301.03(c)(4), the Applicants are now submitting revised Existing Conditions Maps that also identify the location of wetlands and surface waters on abutting properties within the bounds of the Existing Conditions Maps Mapping, Exhibit E (within approximately 700 feet (ranging from 300 feet to 2,000 feet, depending on the plan view where the ROW turns) on either side of the edge of the ROW. Again, because the Applicants lack the right to access private abutting properties, the additional information displayed on the Mapping was obtained by overlaying the available resource information from the sources described above onto the Existing Conditions Mapping and interpreting Project-specific topographic information and aerial photographs. While the additional information is helpful, it does not reflect the same level of accuracy found in the fully delineated information for the Project site. Finally, as the distance from the Project increases, the usefulness of the overlay information decreases.

The Applicants have complied with the purpose of the rule, namely to identify wetlands and surface waters that may be affected by the Project. The newly submitted Existing

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<sup>2</sup> The Applicants only have access to the adjoining NEP and PSNH ROW and to State property that abuts the Project.

Conditions Mapping identify the location of wetlands and surface waters using the best practical method to a distance of approximately 700 feet beyond the boundary of each side of the ROW. It is extremely unlikely that the Project, a linear transmission line, will have any effect on any water body that is over 700 feet away from the edge of the ROW—the Project will not discharge to surface waters or to groundwater; runoff from the Project will be appropriately controlled and directed away from surface waters and wetlands; and any soil disturbance will be restored after construction of the Project is complete. Requiring the Applicants to extend this analysis any farther would be a significant waste of resources without any corresponding benefit in assisting the SEC to review the Project.

Furthermore, should the SEC require the Applicants to strictly comply with Site 301.03(c)(4), the Applicants would have to completely re-work the size and scale of their Existing Conditions Mapping. As one increases the scale to include more information from the USGS and NWI maps, the important and relevant information become less clear, which would be counterproductive.

A waiver of this rule will not disrupt the orderly and efficient resolution of matters before the Committee. In fact, providing additional maps beyond the approximate 700 foot ROW edge of the Existing Conditions Mapping (700 feet from the edge of the corridor) would not add any additional pertinent information and would only have the effect of shifting the Committee's analysis towards wetlands and surface waters that cannot reasonably be expected to be impacted.

### **C. Identification of Natural, Historic, Cultural, and Other Resources**

#### **a. Natural Resources**

The Wildlife Habitat Land Cover Type Mapping already identifies the location of natural resources within the mapped area (700 feet from the ROW edge) as depicted on a scale at 1 inch

to 400 feet. As discussed above, it is impractical and unreasonably burdensome to require the Applicants to map all natural resources outside of the mapped area. For that reason, the Applicants respectfully request a partial waiver from this rule.

**b. Historical and Archaeological Resources**

The Application already identifies all existing historic properties within the area of potential effect – i.e., one-quarter mile on either side of the transmission line. An inventory file review revealed that there are no properties that have been previously listed or determined eligible for listing within the Project study area. *See* Due Diligence Report, Appendix J. Moreover, NHDHR New Hampshire Department of Historic Resources (“NHDHR”) has already concluded that “there is no potential to affect above ground resources in the New Hampshire portion of the project and that no further studies are required.” *See* Letter from NHDHR, Sept. 3, 2015.

Extending the analysis beyond the area of potential effect set by NHDHR would be onerous and inapplicable for this Project. Therefore, based on the above-referenced discussion, and the fact that there are no historic resources within one-quarter mile of the Project, the Applicants request a waiver from strict compliance of Site 301.03(c)(5) to the extent any historic properties exist outside of the one-quarter mile area of potential effect.

The Application already identifies all existing archaeological resources within one-half mile on each side of the Project’s centerline, as described in the Application and accompanying Phase I-A Report, (Appendix AM, PAL conducted a Phase IA walkover inspection of Segment 2 (the NEP portion of the ROW). Segments 3 and 4 of the Project previously underwent a Phase I-A archaeological survey and NHDHR project review for a prior PSNH project. This prior Phase I-A review did not recommend further archaeological survey, and the prior project received a determination of no effect from NHDHR (R&C #4356). *See* Appendix L. The Request for

Project Review, Appendix K, also includes additional information related to archaeological resources.

NHDHR has already concurred that the Project will not have an adverse effect on archaeological resources for Segments 3 and 4, and therefore, any additional identification of archaeological resources outside of the one-half mile area of potential effects is inapplicable to this Project and would be an onerous task for the Applicants. As for Segment 2, the Applicants have submitted the Phase I-B survey results and in December, 2015 received a letter from NHDHR that “there are no known properties or archaeological significance within the area of the undertaking’s potential impact and no further identification or evaluative studies are recommended.” *See* Letter from NHDHR, Dec. 9, 2015.

It is not reasonably foreseeable that the construction and operation of a linear transmission line will have any effect on any archaeological resources that are over one-half mile away from the centerline of the new transmission line.

### **c. Community Resources and Development**

The Community Resources Mapping already identifies the location of community resources within 1,000 feet of the Project ROW as depicted on a scale at 1 inch to 2,000 feet. As discussed above, it is impractical and unreasonably burdensome to require the Applicants to map all community resources beyond 1,000 feet of the Project.

## **III. Conclusion**

Based on the above, the Applicants respectfully request that the SEC grant a partial waiver of Site 301.03(c)(3)–(5). The revised Existing Conditions Mapping, Wildlife Habitat Land Cover Type Mapping, and Community Resources Mapping already contain the required data up to approximately 700 to 1,000 feet on each side of the Project corridor. Requiring the

Applicants to expand their maps beyond the existing boundaries is onerous, overly burdensome. Moreover, it does not provide any additional relevant data that would aid the Committee in making its decision. The partial waiver will not disrupt the orderly and efficient resolution of this proceeding.

Counsel for the Public takes no position on this motion and Intervenor Huard objects to this motion.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Find that partial waiver of the mapping requirements found in Site 301.03(c)(3)–(5) serves the public interest;
- B. Find that a partial waiver will not disrupt the orderly and efficient resolution of matters before the subcommittee; and
- C. Grant such further relief as requested herein and as deemed appropriate.

Respectfully Submitted,

New England Power Company and

Public Service Company of New Hampshire

By its attorneys,

McLANE MIDDLETON  
PROFESSIONAL ASSOCIATION

Dated: February 23, 2016

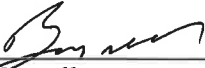
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Certificate of Service

I hereby certify that on the 23<sup>rd</sup> of February, 2016, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.

  
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Barry Needleman