

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2015-05

**Re: Joint Application of New England Power Company
d/b/a National Grid and Public Service Company of New Hampshire
d/b/a Eversource Energy for a Certificate of Site and Facility**

March 30, 2017

ORDER DENYING MOTION TO REOPEN THE RECORD

I. Introduction

On October 4, 2016, a Subcommittee of the Site Evaluation Committee (Subcommittee) issued a Certificate of Site and Facility (Certificate) to New England Power Company d/b/a National Grid (NEP) and Public Service Company of New Hampshire (PSNH) d/b/a Eversource Energy (collectively referred to as Applicant) approving the siting, construction and operation of a new 345 kV electric transmission line project known as the Merrimack Valley Reliability Project (Project). The Project will be constructed in an existing developed transmission line corridor between NEP's Tewksbury 22A Substation in Tewksbury, Massachusetts and PSNH's Scobie Pond 345 kV Substation in Londonderry, New Hampshire.

Intervenor, Margaret Huard, filed a motion for rehearing on October 19, 2016. The Applicant objected to Ms. Huard's Motion for Rehearing on October 26, 2016, and filed a motion for clarification. On October 31, 2016, Ms. Huard filed an addendum to her motion for rehearing. On October 31, 2016, the Subcommittee held a hearing on the motion for rehearing and the motion for clarification, and on November 28, 2016, the Subcommittee issued an order denying rehearing and an order granting clarification. An appeal to the New Hampshire Supreme Court was not filed by any party.

II. Motion to Reopen the Record

On February 17, 2017, Ms. Huard filed a motion to reopen the record. Attached to her motion was a letter from NEP to William Dion dated December 7, 2016. That letter included the results of a magnetic field survey performed by NEP on Mr. Dion's property. Ms. Huard is a neighbor of Mr. Dion. Also attached to Ms. Huard's motion was a twenty-nine (29) page document titled; "BioInitiative 2012, Section 1, Summary for the Public" (BioInitiative 2012). In her motion to reopen Ms. Huard relies on the BioInitiative 2012 report to suggest that the actual magnetic field survey performed on Mr. Dion's property found levels that exceed recommendations contained in that report.

On February 21, 2017, the Applicant objected to the motion to reopen the record. The Applicant claims that the motion to reopen the record is procedurally improper because it was filed after the final determination in this docket. Additionally, the Applicant asserts that the motion is procedurally improper because the BioInitiative 2012 report has been available since 2012, and Ms. Huard did not provide any reason as to why she did not introduce that report during the adjudicative proceeding. The Applicant also objected, claiming that even if the motion is procedurally proper, it should be denied because the BioInitiative 2012 report has no probative value. The Applicant alleges that the BioInitiative 2012 report is not peer-reviewed, has been widely criticized in the scientific community, and is not based on scientific method.

III. Analysis

The motion to reopen the record is denied. This denial is based largely on the reasons set forth in the Applicant's objection.

The motion to reopen the record is procedurally improper. A motion to reopen the record is normally filed after the record in the proceeding has been closed, but a final decision

has not been reached. In this case, the Subcommittee deliberated and reached a final decision on the Application. The Subcommittee also considered and denied the motion for rehearing brought by Ms. Huard. The time to appeal the Subcommittee's decision has expired. While not explicit, our administrative rules support the proposition that a motion to reopen the record must be made prior to the final determination or decision of the Subcommittee. N.H. CODE ADMIN. RULES Site 202.26 (a) provides that additional evidence, testimony, exhibits or arguments are not normally allowed once record has been closed. The record may be reopened if the presiding officer determines that additional testimony, evidence or argument is necessary for full consideration of the issues presented in the proceedings. *See* N.H. CODE ADMIN. RULES Site 202.27.

Final deliberations, a final Decision and Certificate, and the denial of a motion for rehearing generally indicate that the Committee has completed its "full consideration" of the issues presented in the proceeding. While there may be some instances where a motion to reopen the record would be appropriate, that is not the case here. During the adjudicative proceeding, the Subcommittee considered and extensively deliberated on the impact of electric and magnetic fields on public health and safety. *See* Transcript, July 11, 2016, p. 49 -68. The Subcommittee found that there would not be an unreasonable adverse impact on public health and safety and issued conditions for post-construction testing for electric and magnetic fields. *See* Decision and Order, October 24, 2016, p. 86-87. The Subcommittee also reviewed the effects of electric and magnetic fields in its consideration of Ms. Huard's motion for rehearing and the Applicant's motion for clarification. *See* Transcript, October 31, 2016, p. 18-24, 33-78. The Subcommittee gave full and fair consideration to the issues involved. Ms. Huard's motion and her argument is merely duplicative of her arguments during the course of the proceeding and

of matters already considered during the deliberations.

In addition, the materials which Ms. Huard provided are neither persuasive nor probative with respect to the issue of the public health and safety. The BioInitiative 2012 report is not a peer-reviewed document. It was published before the adjudicative proceedings commenced and was available to Ms. Huard to present during the course of the adjudicative proceedings. She did not offer the document as an exhibit or rely on it in any fashion. The BioInitiative 2012 report does not relate directly to electric and magnetic fields associated with the Project and would add little to the deliberations undertaken by the Subcommittee.

SO ORDERED this thirtieth day of March, 2017.

A handwritten signature in cursive script, appearing to read 'F. Anne Ross', is positioned above a horizontal line.

F. Anne Ross, Presiding Officer
Site Evaluation Committee