

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**Docket No. 2018-02**

**Re: Petition for Declaratory Ruling of New Hampshire Transmission, LLC,  
Regarding Transmission Substation Upgrade**

**August 2, 2018**

**ORDER ON PETITION FOR DECLARATORY RULING**

This order grants the petition for declaratory ruling filed by New Hampshire Transmission, LLC.

**I. BACKGROUND**

On May 8, 2018, New Hampshire Transmission, LLC (NHT) filed a petition seeking a declaratory ruling that the proposed upgrade to portions of the transmission substation in Seabrook, New Hampshire (Seabrook Substation) does not constitute a sizeable change or addition to an existing facility within the meaning of RSA 162-H:5, I (Petition).

NHT owns 88.2% of the Seabrook Substation, which interconnects the 1,318 MW Seabrook Nuclear Generating Station (Seabrook Generator) to the New England electric grid. The Seabrook Substation and the Seabrook Generator were constructed and operate under a Certificate of Site and Facility issued in January 1974. Seabrook Substation is a Pool Transmission Facility under the ISO New England Inc. (ISO-NE) tariff, and is part of the region's Bulk Power System. It is an integral part of the North-South Interface and the North New England–Scobie plus Line 394 Interface. It connects the following 345 kV transmission lines: (i) the Seabrook to Ward Hill 394 Line; (ii) the Seabrook to Scobie 363 Line; and (iii) the Seabrook to Timber Swamp/Newington 369 Line.

In conjunction with ISO-NE, NHT determined that it must complete an upgrade to the

switchyard and transmission lines at the Seabrook Substation to ensure its continuing reliability for the New England grid. NHT identified the following improvements required at the Seabrook Substation:

- Replacement of four circuit breakers with newer, more compact and efficient breakers;
- Replacement of the existing foundations and buses (support structures) for the three transmission lines that will involve the construction of new concrete footings;
- Replacement of relay protection systems; and
- Enhancements to the Air Termination Yard.

Except for in one specific area, all of the work will be performed within the existing Seabrook Substation footprint. The work that will be performed outside of the existing footprint will occur in a seven-foot wide, approximately 600-foot long strip of land that was filled in with gravel as a part of the original development of the Seabrook Generator. The gravel strip will accommodate the relocation of the eastern-most transmission lines and associated structures seven-feet to the east of its existing location. The work will include the placement of new gravel fill and the construction of a retention wall. The upgrades and construction will not result in any change in capacity of the transmission lines or the Seabrook Generator. The estimated cost of the upgrade is approximately \$87 million.

NHT requests that the Subcommittee issue a declaratory ruling pursuant Site 203.02 finding that the proposed upgrades do not constitute a sizeable change or addition to an existing energy facility and, therefore, do not require a Certificate of Site and Facility under RSA 162-H:5.

## **II. PROCEDURAL HISTORY**

On May 17, 2018, the Chair of the Committee appointed a 3-person subcommittee (Subcommittee) in this docket and the Administrator sent a letter to the Attorney General informing him that the Petition had been filed and requesting notification if he intended to appoint Counsel for the Public. On May 31, the Deputy Attorney General appointed Counsel for the Public in this docket.

On May 25, 2018, the Administrator sent a letter to the Seabrook Town Manager, informing him that the Petition had been filed and the means by which the Town could participate in the proceeding.

On May 30, 2018, an Order and Notice of Petitions to Intervene, Prehearing Conference, and Public Hearing was issued. The Order and Notice described the proposed upgrades and the nature of the Petition; scheduled a prehearing conference for June 14, 2018; scheduled a public hearing on July 13, 2018; and set a deadline of June 11, 2018, for filing motions to intervene. The Order and Notice was posted on the Committee's website. It was also published in the *Union Leader* and the *Portsmouth Herald* on June 1 and June 2, respectively. No parties sought to intervene.

On July 12, 2018, the Subcommittee and Counsel for the Public conducted a site visit. A public hearing was held on July 13, 2018. The Subcommittee heard testimony from Carrie Cullen Hitt, President of NHT, and Timothy Cooper, Manager of Nuclear Substations North, for NextEra Energy. The Subcommittee asked the witnesses questions and received clarifying answers, and also heard closing statements from counsel for the Applicant and from Counsel for

the Public. The Subcommittee voted unanimously to grant the Petition. This order memorializes the Subcommittee's decision.

### **III. POSITIONS OF THE PARTIES**

NHT argues that the proposed upgrades do not constitute a sizeable change or addition to the existing facility. NHT claims that the upgrades will not increase the size of the Seabrook Substation. It acknowledges that the upgrades will require moving one transmission line and associated structures seven-feet to the east. However, the relocated line will remain within a previously disturbed area. The upgrade will not change the visual profile of the Seabrook Substation. NHT reports that the upgrades will not require the purchase of additional land and will not result in any change in the transmission capacity of the Seabrook Substation. NHT describes the upgrades as the replacement of existing components and an enhancement of the existing Air Termination Yard. NHT also asserts that many of the new components will be more compact and smaller, thereby creating advantages to the overall operation and management of the Seabrook Substation. NHT relies on the issuance of a Wetlands permit and a Shoreland Impact permit to argue that the upgrades will not adversely affect the quality of the environment surrounding the Seabrook Substation.

Counsel for the Public engaged in informal discovery with NHT, but did not file an answer or objection. Counsel for the Public attended the site visit and participated in the adjudicative hearing. By way of closing statement, Counsel for the Public advised the Subcommittee that he was satisfied that the upgrades would not adversely impact the quality of the environment near the Seabrook Substation. Counsel for the Public was satisfied that the upgrades were not a sizeable change or addition under the five factor test used by the Site Evaluation Committee in prior dockets.

#### **IV. REQUIRED PERMITS**

The proposed upgrades require a Shoreland Impact permit and a Wetlands permit from the Department of Environmental Services (DES). NHT applied for the permits with DES contemporaneous with the filing of the Petition. NHT also advises that it will be applying to the New Hampshire Public Utilities Commission for authority to finance the project. NHT states that no other permits are required and review of environmental and reliability factors by the Subcommittee for a new Certificate of Site and Facility would be duplicative and unnecessary to protect the public interest.

On June 25, 2018, NHT filed in this docket the Shoreland Impact and the Wetlands permits issued by DES.

The Shoreland Impact permit authorizes NHT to impact 2,001 square feet of protected shoreland in order to install a retaining wall and gravel fill over existing gravel fill to allow for the repair and replacement of support foundations for nine gas insulated bus lines and notes that no increase in impervious area is proposed.

The Wetlands permit authorizes NHT to impact 3,415 square feet within the previously disturbed 100-foot tidal zone to install a retaining wall to allow for the repair and replacement of support foundations for the nine (9) gas insulated bus lines.

#### **V. ANALYSIS**

RSA 162-H:5 prohibits the siting, construction or operation of an energy facility unless the facility has been issued a Certificate of Site and Facility. Existing facilities and those that were constructed prior to the enactment of RSA 162-H or its predecessor, RSA 162-F, require the issuance of a Certificate of Site and Facility for “sizeable changes or additions.”

*See* RSA 162-H:5, I, II. The Committee has defined the word “sizeable” as “having considerable size.” *See* Order Granting Motion for Declaratory Ruling, Docket No. 2014-01, Motion of Granite State Gas Transmission Company for Declaratory Ruling on the Squamscott Replacement Project, at 9 (Aug. 20, 2014) (citing and quoting Order Granting Motion for Declaratory Ruling, Docket No. 2012-02, Motion of Granite State Gas Transmission Company for Declaratory Ruling on the Little Bay Bridge Crossing Replacement Project, at 4 (July 5, 2012)). “Considerable” is defined as “large in amount, extent or degree” or “worthy of consideration, important.” *Id.*; *see also* Order Denying Motion for Declaratory Ruling, Docket No. 2009-01, Motion of Campaign for Ratepayers Rights, *et. al.*, for a Declaratory Ruling Regarding Modifications to Merrimack Station Electric Generating Facility, at 8 (Aug. 10, 2009).

Whether a proposed addition or change to an energy facility is sizeable is a fact-driven determination. *See* Order Granting Motion for Declaratory Ruling, Docket No. 2014-01, at 9. In previous decisions, the Committee considered the following factors in determining whether a change or addition to an existing facility was sizeable: (i) the existing size of the energy facility and the size of the proposed change; (ii) whether the proposed change will require the acquisition of new land; (iii) whether the proposed change will create a change in the capacity of the existing facility; (iv) whether the proposed change is merely a replacement of existing components of the facility as opposed to an expansion or increase in size of those components; and (v) whether the proposed addition or change to a facility will cause disruption in the existing environment. *Id.* at 9-10; *see* Order Granting Motion for Declaratory Ruling, Docket No. 2012-02, at 4; *see also* Order Denying Motion for Declaratory Ruling, NHSEC Docket No. 2009-01, at 8 (vacated on jurisdictional grounds in *In re Campaign for Ratepayers’ Rights*, 162 N.H 245 (2011)). “The

vast difference in size, type and capacity of existing energy facilities must govern the nature of the consideration and the weight applied to various factors.” Order Granting Motion for Declaratory Ruling, Docket No. 2014-01, at 10.

The Subcommittee visited the site and had the opportunity to see and experience the overall nature and size of Seabrook Substation and the various components within and outside the protected area. The plan submitted and the testimony provided reveal that the overall effect of the upgrades will be to shift the bus work and associated structures containing three transmission lines seven-feet to the east of its current location.

The upgrades include replacement of four circuit breakers and associated equipment within the protected area. The new circuit breakers and equipment will be smaller in size and profile than the existing ones.

The size of the proposed changes when compared to the overall size of the Seabrook Substation does not amount to a sizeable change or addition.

In considering whether the proposed upgrades will cause a sizeable change or addition to the existing facility we also note that there will be no acquisition of additional land nor will the capacity of the Seabrook Substation increase.

While some of the structures in the transmission yard will be replaced and moved approximately seven-feet, they will remain in a disturbed area. The equipment within the protected area will be replaced with modern, more compact equipment. We find that the proposed upgrades are essentially a replacement of some components of Seabrook Substation. There will be no expansion or increase in the size of the components themselves.

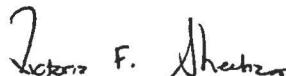
DES has issued a Shoreland Impact permit and a Wetlands permit for the proposed upgrades. Compliance with those permits assures minimal, if any, disruption to the quality of the environment.

Applying the same approach in this docket as in prior dockets, we find that the proposed upgrades are not a sizeable change or addition to the existing facility. Therefore, we find that the issuance of a Certificate of Site and Facility for the proposed upgrades under RSA 162-H:5, II, is unnecessary. The Petition is granted.

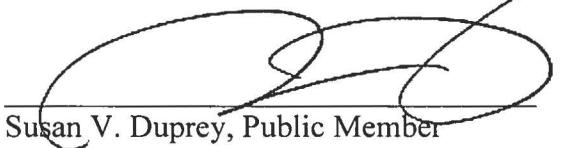
SO ORDERED this second day of August, 2018.



Michael S. Giaimo, Presiding Officer  
Site Evaluation Committee  
Commissioner  
Public Utilities Commission



Victoria F. Sheehan, Commissioner  
Department of Transportation

  
Susan V. Duprey, Public Member