

June 15, 2017

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BY HAND

Stephen August, Esq.
Presiding Officer
Energy Facilities Siting Board
One South Station
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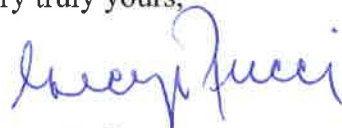
Re: EFSB 17-02/D.P.U. 17-82/17-83
Petition of NSTAR Electric Company d/b/a Eversource Energy
(Town of Sudbury)

Dear Presiding Officer August:

Enclosed is a Petition of the Town of Sudbury to Intervene as a Party in the above-referenced proceedings.

Thank you for your attention to this matter.

Very truly yours,



George X. Pucci

GXP/man

Enc.

cc: Town Manager (by electronic mail)
Jeffrey M. Bernstein, Esq. (by electronic mail)
Catherine J. Keuthen, Esq. (by electronic mail)
Cheryl A. Blaine, Esq. (by electronic mail)

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COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

Petition of NSTAR Electric Company d/b/a
Eversource Energy Pursuant to G.L. c.164, §69J
for Approval to Construct, Operate and Maintain a
New 115-kV Transmission Line in the Towns of
Sudbury, Hudson and Stow and the City of
Marlborough and to Make Modifications to an
Existing Substation in Sudbury

EFSB 17-02/D.P.U. 17-82/17-83

PETITION OF TOWN OF SUDBURY TO INTERVENE AS PARTY

Pursuant to G.L. c.30A, §10, 980 CMR §1.05, and 220 CMR §1.03, the Town of Sudbury (the “Town” or “Sudbury”) hereby petitions the Energy Facilities Siting Board (the “EFSB”) for leave to intervene as a full party in the above-captioned proceeding. As grounds therefor, the Town states as follows:

1. The Town is a municipality duly established under the laws of the Commonwealth of Massachusetts and has a regular place of business at Sudbury Town Hall, 322 Concord Road, Sudbury, MA 01776. The Town seeks to intervene and participate as a full party in this proceeding in order to preserve its own economic interests and protect the interests of its citizens whose quality of life, health, safety, and environment will be affected by the new transmission line which is the subject of this proceeding.

2. On April 20, 2017, NSTAR Electric Company d/b/a Eversource Energy (“Eversource”) filed a Petition with the EFSB for authority to construct, operate and maintain a new approximately 9-mile, 115-kV underground transmission line between Eversource’s Sudbury Substation located in Sudbury and the Hudson Light & Power Department’s substation in Hudson, MA.

3. Eversource intends to build the new line along an abandoned railroad right of way of the Massachusetts Bay Transportation Authority (the abandoned railroad right of way is referred to as the “MBTA ROW”), located in Sudbury. Eversource has selected a Preferred Project (the “Preferred Project”) which involves underground construction and installation of the new line along the MBTA ROW, along with bridge and culvert-related installation where the line cannot be placed beneath water bodies or wetland marshes and swamps.

4. The route for the Preferred Project begins at the Sudbury substation, located off Route 20 in Sudbury, travels in a northwesterly direction within the existing MBTA ROW for approximately 7.6 miles, traversing within the MBTA ROW through the Town of Sudbury for a distance of approximately 4.3 miles, the Town of Stow, for a distance of .07 miles, the City of Marlborough, for a distance of .01 miles, and the Town of Hudson, for distance of 1.9 miles. The route for the Preferred Project then leaves the MBTA ROW in Hudson at the intersection of the MBTA ROW and Wilkins Street and proceeds in a southwesterly direction along Wilkins Street (Route 62) and Forest Avenue for a distance of approximately 1.4 miles before terminating at the Hudson substation.

5. Eversource has presented a Noticed Variation (the “Noticed Variation”) which runs along the same route as the route for the Preferred Project, but would involve the construction of new overhead electric transmission lines and related overhead infrastructure.

6. Eversource has also presented a route for a Noticed Alternative Route (the “Noticed Alternative”). The route for the Noticed Alternative is approximately 10.3 miles long, and runs beneath public roadways for its entire length, including Boston Post Road/Route 20, Greenhill Road and Old Lancaster Road in Sudbury. Eversource claims that the Noticed Alternative Route was selected as the preferred roadway route after consideration of “feedback from the Town and involved stakeholders.” However, little to no meaningful discussions have

been held with the Town concerning under-the-street options. A thorough analysis of these options must occur during the EFSB proceeding.

7. Eversource has also submitted a petition for numerous zoning exemptions which it needs for the Preferred Project Route in an effort to avoid seeking special permits or variances relating to zoning issues, including: dimensional requirements concerning the height of the proposed tower to be built at the Sudbury Substation; exemptions concerning permitted work days and work hours for construction along the ROW, including Saturdays; exemption from regulations preventing nuisance and hazards to persons and property by reason of excessive noise in violation of MassDEP Noise Standard at 30 CMR 7.10(1) which is incorporated in the Town's bylaws; a special permit for new electric transmission facilities; a variance for violation of regulations relating to the Town's Water Resource Protection Overlay District; as well as comprehensive zoning exemptions exempting the project from future zoning amendments.

8. On the alleged need for this project, Eversource states that the project is one of approximately 40 transmission projects that emerged from a study of the regional system performed by ISO New England. Eversource claims that in "addition to maintaining the reliable and secure delivery of electricity," these transmission projects are expected to save Greater Boston area customers money "in reduced transmission congestion costs while allowing lower cost electricity generation from outside the area to serve capacity needs within the area." Thus far, the Town has not been provided any meaningful detail to support the claimed need for the construction of this new electric transmission line through the abandoned MBTA ROW, and no-build alternatives such as energy efficiency, distributed generation, microgrids, etc., have been rejected in a conclusory manner, without adequate analysis. The Town, as Eversource's proposed host for this project, has substantial and specific interests in seeking a rigorous analysis

of project need, including, but not limited to, an analysis of no-build alternatives related to the current energy efficiency and grid modernization efforts underway in the Commonwealth.

9. Eversource has included a cursory analysis and rejection of project alternatives in its petition to the EFSB. It has included 1) a no-build alternative; 2) two transmission solutions, Eversource's Preferred Project, versus an alternative set of projects that would be constructed by New England Power Company d/b/a National Grid (the "National Grid Project"), along with an upgrade to the 115-kV Line 455-507 to be constructed by Eversource; and 3) non-transmission alternatives such as new generation, energy efficiency, demand-response programs, or distributed generation. The Town, as Eversource's proposed host for this project, has a substantial and specific interest in ensuring that an adequate analysis of alternatives occurs in this proceeding.

10. Eversource has presented a conceptual level cost estimate of \$91 million for the Preferred Project, and has also provided alternative project cost analysis. The Town, as Eversource's proposed host for this project, has a substantial and specific interest in examining these estimates.

11. For new electric transmission lines, the EFSB must consider environmental impacts and mitigation, the need and cost of the proposed facility, and alternatives, including other means of meeting the identified need and alternate routes or sites for such facilities. The EFSB is also required to review whether the project is consistent with current health, environmental protection, and resource use and development policies, as adopted by the Commonwealth of Massachusetts. The Town, as Eversource's proposed host for this project, has substantial and specific interests with regard to all of these elements of the EFSB's analysis.

12. The Preferred Project crosses or abuts protected land areas and parcels with regulatory and environmental constraints, including: Streams, Marshes, Swamps, and other

Wetland Resource Areas; Protected and Restricted Land Areas and Parcels; Forest; Recreational Open Space; Certified and Potential Vernal Pools; Zone I, Zone II and Zone III Wellhead Protection Areas; NHESP Priority and Estimated Habitat; Article 97 Lands; Community Groundwater Source; Local Water District; Aquifer; State and Federal Listed Historic Sites and Places, Inventoried Property and Area; and local historic districts.

13. In its Environmental Notification Form (the “ENF”) submitted to the Commonwealth of Massachusetts, MEPA division following the filing of its EFSB petition, Eversource has acknowledged that the MBTA ROW has not been used for rail service for more than 40 years. Except for portions of the abandoned MBTA ROW which contain remnants of the single track and ties from the abandoned railroad use which originated in the 1880s, it consists of naturally growing vegetation and forested areas. In addition to the questionable nature of any proposal to build infrastructure along these natural land areas, there is a question as to whether the MBTA ROW, abandoned as an active rail line for more than 40 years, can be used for a different public purpose without authorizing legislation. The Town, as Eversource’s proposed host for this project, has substantial and specific interests in such issues.

14. In Sudbury, the MBTA ROW crosses Hop Brook and Dudley Brook and is adjacent to non-infrastructure related land areas, including the Great Meadows National Wildlife Refuge, the Coolidge at Sudbury Residential communities, and commercial properties along Boston Post Road/Route 20. Past Union Avenue, land uses along the ROW become primarily residential, and transition to conservation areas including Hop Brook Marsh Conservation Land, Memorial Forest, and Assabet River National Wild Refuge.

15. Construction of the new line will require the clear-cutting of trees and wooded shrubs to create a 30-foot wide corridor through the MBTA ROW, with additional 50-foot wide clearings in the locations where Eversource must install its splice vaults. Construction of the

project within the MBTA ROW will result in adverse impacts to wetland resources as a result of tree clearing and filling in wetlands and creation of a construction platform. To mitigate against what Eversource concedes to be “unavoidable” adverse impacts to jurisdictional areas within the MBTA ROW, Eversource has stated an intent to work with the U.S. Army Corps of Engineers, the Massachusetts Department of Environmental Protection (“MassDEP”), Massachusetts Natural Heritage and Endangered Species Program (“NHESP”), and the Sudbury Conservation Commission, but that “final details” regarding its “overall wetland related mitigation approach” will not be known until its final design is complete. The Town, as Eversource’s proposed host for this project, has substantial and specific concerns and interests in intervening in this proceeding to protect wetland resources within its borders.

16. The Preferred Project Route involves direct impact upon jurisdictional wetland resources under the Massachusetts Wetlands Protection Act and Regulations, through construction and excavation directly within Wooded Swamp Habitat, Shrub Swamp Habitat, and Shallow Marsh Habitat. The project also involves potential wetland alterations as defined under the Town of Sudbury’s Wetlands Bylaw.

17. Clear cutting of trees and vegetation both during and after construction, as well as the proposed means and methods for vegetation management following construction are substantial and significant concerns for the Town and must be subject to a rigorous analysis during the EFSB proceeding.

18. A significant public water supply wellfield is located southerly and downgradient of the MBTA ROW. The public water supplies include the following five active gravel packed wells: MassDEP Nos. 3288000-02G, 3288000-04G, 3288000-06G, 3288000-07G, and 3288000-09G. The newest well, No. 3288000-02G, is located approximately 1,800 feet to the south of the MBTA ROW.

19. The associated Zone II for these wells covers 2,468 acres and the section of the MBTA ROW that crosses the Zone II area is approximately 8,800 feet in length and covers 16.6 acres. Zone II is defined in MassDEP Regulations as “that area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation).” Zone III is defined as the land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. As described in the MassDEP Source Water Assessment and Protection Report for this area, the wells are located in an aquifer with a high vulnerability to contamination due to the absence of hydrogeological barriers (i.e., clay) that can prevent contaminant migration.

20. These wells are all located in a contiguous high yield aquifer rated as greater than 300 gallons per minute yield per well and with a transmissivity of greater than 4,000 square feet per day. The US Environmental Protection Agency has no record of any health based violations reported by the State for this water system over the last 10 years. The Town, as Eversource’s proposed host community for this project, has a substantial and specific interest in protecting public water supplies which may be adversely affected by the project and maintenance of the project area thereafter.

21. Eversource has also acknowledged that the Preferred Project will harm Habitat for State-Listed Rare Species along the MBTA ROW and will result in the direct mortality of State-Listed Rare Species, including four Special Concern Species, Blue-Spotted Salamander, Eastern Box Turtle, Wood Turtle, and Eastern Whip-poor-will. This is aside from the impact upon other numerous species of wildlife which inhabit these otherwise undisturbed and natural habitat areas. In its ENF, Eversource has indicated an intent to offer mitigation measures such as “financial contribution toward land acquisition.” However, such measures would not mitigate the

permanent loss of wildlife habitat and mortality of wildlife which will result from the construction and clearing within the MBTA ROW. As Eversource's proposed host for the project, the Town has substantial and specific interests in preserving and protecting wildlife and wildlife habitat-related interests in this area of Sudbury.

22. In addition to the foregoing State Listed Rare Species, the eastern-most portion of the MBTA ROW, including 5.8 acres of habitat, passes through Priority Habitat and Estimated Habitat as described in the Massachusetts Natural Heritage Atlas. Based on recent NHESP filings in the area, there are at least six State Listed amphibian, plant and bird species which will be affected by the project, including Special Concern and Endangered species, in addition to those listed above.

23. The US Fish & Wildlife Service has also identified the Northern Long-Eared Bat to be present in or near the MBTA ROW. The Northern Long-Eared Bat is listed as a Threatened Species under the Endangered Species Act and is also listed as Endangered under the Massachusetts Endangered Species Act.

24. Spotted Turtle, Blanding's Turtle, Common Moorhen, and Long's Bulrush are further reptile, bird, and plant species of Special Concern or Threatened, which have been found in the project area within the last several years.

25. Another notable wildlife feature is a thriving Great Blue Heron rookery in the Lyons-Cutler Reservation. The rookery is approximately 500 feet south of the MBTA ROW on the edge of the Allowance Brook Marsh. Great Blue Herons are protected by the Federal Migratory Bird Treaty Act. Such species, along with the other species and protected land features cited herein, are a source of great enjoyment to recreational users who walk along the footpaths in the project area. The Town, as Eversource's proposed host for this project, has

substantial and specific interests in preserving the special and unique nature of the proposed project area.

26. The clearing will also have an adverse effect on altering existing right of way habitat, including impacts to the location of isolated populations of once more widespread species, altered wildlife behaviors, impacts beyond the existing trail, decline of resident species, disruption of movement corridors and increase in habitat fragmentation, direct effects of increased access, and wildlife harassment from the increased intensity of use following construction and maintenance along the abandoned MBTA ROW.

27. There will also be thermal impacts to wetlands and streams as the result of increased solar radiation from clear-cutting the tree canopy within the transmission line corridor as well as vernal pool habitat impacts.

28. Construction along the MBTA ROW will affect approximately 195 residences which either directly abut or are within the immediate vicinity of the project area. The Town, as Eversource's proposed host for this project, has substantial and specific interests in protecting the health, safety and quality of life of residents who live along the otherwise abandoned MBTA ROW.

29. Noise will be generated by the construction equipment and activities, including construction activities to be performed by crane, with tree clearing, earth work, and road building, operation of drill rigs, concrete trucks, and cranes for installation of the duct boxes. Blasting may also be required in shallow bedrock areas for excavation activities. The Town, as Eversource's proposed host for this project, has substantial and specific interests in these issues.

30. The Town's residents have also expressed concerns over electric and magnetic fields and related health effects upon humans and wildlife exposed to the electromagnetic fields after construction of the transmission line, particularly where the line will be constructed in such

close proximity to certain residences along the MBTA ROW. The Town has substantial and specific interests in ensuring compliance with applicable health and safety standards for electromagnetic frequency.

31. With respect to adverse impacts upon Cultural Resources, Eversource has represented that it does not anticipate adverse impact to “known archeological sites” and that above-ground historic properties “could be” affected by the clearing of a 30-foot wide corridor along the MBTA ROW. The Town has yet to be provided with meaningful detail concerning Cultural Resources located in the project area and adversely affected by the project, or intended mitigation measures. The Town, as Eversource’s proposed host for this project, has substantial and specific interests in preserving Cultural Resources along the abandoned rail line in Sudbury.

32. Eversource also claims that the Preferred Project is consistent with the Commonwealth’s Sustainable Development Principles (“Smart Growth”). However, Smart Growth principles discourage new construction and disturbance within natural areas such as those located along the abandoned MBTA ROW, and specifically mandate the protection of such environmentally sensitive areas and natural landscapes. The Town, as Eversource’s proposed host for this project, has substantial and specific interests in protecting Smart Growth principles in Sudbury, particularly those mandating that new infrastructure be located in areas which have already been disturbed and developed for such purposes.

33. It is also expected that since there is a long history of previous railroad activity, contaminated soils will be encountered during excavation and removal of the abandoned tracks and ties along the MBTA ROW. The potential contaminants include metals, pesticides such as lead arsenate, constituents of oil or fuel, coal ash from engines, creosote from railroad ties, and possibly polynuclear aromatic hydrocarbons from diesel exhaust. An extensive assessment and identification of potential hazards and a comprehensive management plan in accordance with

State and Federal regulations will be an essential component of this project and the Town has substantial and specific interests in ensuring that contaminants and hazardous materials are properly contained and disposed.

34. In summary, the Town has substantial and specific interests in pursuing a detailed and thorough analysis of the professed need for the new transmission line which Eversource proposes in these highly sensitive areas and also has substantial and specific interests in ensuring that a rigorous and thorough analysis is performed with respect to alternatives for the project in the event Eversource satisfies its burden of proof on project need. The Town also has substantial and specific interests in a thorough analysis of the proposed under-the-streets option and whether Eversource properly assessed and scored their criteria when comparing between the Preferred Project, any under-the-streets option, and the National Grid Project, and whether the estimated cost of the Preferred Project versus other options was properly and correctly evaluated and assessed. Assuming Eversource satisfies its burden of proof on the foregoing issues, the Town also has substantial and specific interests in ensuring that adequate environmental mitigation and construction protocols are required for construction of either the Preferred Project or the Noticed Alternative. The Town, as Eversource's proposed host for this project, intends to present evidence and issue discovery on these issues.

35. The Town's intervention will not unduly burden the Siting Board, Eversource, or any of the parties that filed to or may intervene in the proceeding in that the Town will refrain from introducing duplicative or repetitive material and will cooperate in ensuring a speedy and efficient proceeding.

WHEREFORE, the Town of Sudbury respectfully requests that it be permitted to intervene in this proceeding as a full party.

TOWN OF SUDBURY

By its attorneys,



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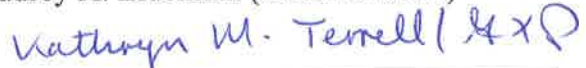
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