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VIA ELECTRONIC MAIL

March 8, 2019

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

Re: SEC Docket No. 2015-04: Public Service Company of New Hampshire d/b/a Eversource Energy for a New 115k Transmission Line from Madbury Substation to Portsmouth Substation
Applicant's Combined Objection to Town of Durham, Conservation Law Foundation, and Durham Residents Motions for Rehearing

Dear Ms. Monroe:

Enclosed for filing in the above-referenced docket please find the Applicant's Combined Objection to Town of Durham, Conservation Law Foundation, and Durham Residents Motions for Rehearing.

Please call me with any questions.

Sincerely,

Barry Needleman

BN:slb
Enclosure

Cc: SEC Distribution List

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

SEC DOCKET NO. 2015-04

APPLICATION OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSOURCE ENERGY FOR A CERTIFICATE OF SITE AND FACILITY

APPLICANT'S COMBINED OBJECTION TO TOWN OF DURHAM, CONSERVATION LAW FOUNDATION, AND DURHAM RESIDENTS MOTIONS FOR REHEARING

Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource" or the "Applicant") objects to the Motions for Rehearing filed by the Town of Durham (the "Town" or "Durham"), the Conservation Law Foundation ("CLF"), and the Durham Point Abutters (the "Abutters").[1] The Motions fail to raise any issue that was overlooked or mistakenly conceived by the Subcommittee and fail to present any new evidence, or *any* evidence, that was not available during the adjudicative hearing.[2] Instead, the Motions simply rehash prior positions[3] and argue that the SEC "got it wrong". The Motions also fail to state factual findings, reasoning, or legal conclusions that the moving parties propose the Subcommittee should make.[4] For these reasons, the Motions should be denied.

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[1] Eversource submits one consolidated objection to the Town's, CLF's, and the Abutters' Motions for Rehearing.
[2] Under RSA 541:3, the Site Evaluation Committee may grant rehearing or reconsideration when a party states good reason for such relief. Good reason may be shown by identifying new evidence that could not have been presented in the underlying proceeding, *see O'Loughlin v. N.H. Personnel Comm'n* 117 N.H. 999, 1004 (1977), or by identifying specific matters that were "overlooked or mistakenly conceived" by the Committee, *Dumais v. State*, 118 N.H. 309, 311 (1978). "A successful Motion for Rehearing does not merely reassert prior arguments and request a different outcome." *Public Service Company of New Hampshire*, NH PUC Order No. 26,224 at 11 (March 6, 2019) (citing *Public Service Company of New Hampshire*, NH PUC Order No. 25,239 at 8 (June 23, 2011)). To the extent the parties wish to introduce new evidence, they have all failed to show why that evidence could not have been presented at the original hearing. *O'Loughlin*, 117 N.H. at 1004.
[3] The Committee presided over 16 days of adjudicative hearings where all parties—including the Town, CLF, and the Abutters—were given a full and fair opportunity to question the Applicants' witnesses. The Committee heard from 41 witnesses; 21 Applicant witnesses, 4 CFP witnesses, and 17 from the interveners. The Committee considered over 450 exhibits and received oral and written statements from the public.
[4] *See* N.H. Code Admin R. 202.29(d)(3).

I. Eversource Currently Has All of the Necessary Property Rights to Construct the Project.

The Town and CLF re-argue that Eversource did not obtain approval from the Governor and Council for the Project to cross Little Bay, and therefore assert that Eversource lacks the necessary property rights to construct the Project.[5] CLF and the Town made identical arguments in their post-hearing briefs. *See Durham/UNH Post-Hearing Brief*, at 29–30; *CLF Post-Hearing Memorandum* at 15–17.

The Applicant responded to these arguments, demonstrating they were without merit. *See Applicant's Post-Hearing Memorandum*, at 141–149.[6] The Subcommittee fully considered these arguments and correctly concluded that Eversource has a valid license to cross Little Bay, Governor and Council approval is not required, and Eversource had properly notified the PUC of its intent to use concrete mattresses to ensure compliance with the National Electrical Safety Code ("NESC"). *Decision and Order Granting Application for Cert. of Site and Facility*, Docket 2015-04 at 68–74 (Jan. 31, 2019) (the "Decision").

A. The Applicant Has a Valid License—Which is All that is Required Under New Hampshire Law to Cross a Public Waterbody—to Construct and Operate the Project Across Little Bay.

The New Hampshire Public Utilities Commission ("PUC") issued a license to Eversource to install the Project across Little Bay. *See Complete PUC Docket for DE 16-441*, App. Ex. 187. Neither the Town nor CLF sought to intervene, oppose, challenge, or request a hearing on the merits of that license. The Town or CLF could have—and should have—intervened in the PUC proceedings if they wanted to challenge the issuance of the PUC license. *See* RSA 371:20 ("The

[5] As a preliminary matter, the SEC has ruled previously that adjudication of property rights should be left to the courts. *Order on Lagaspence Motion to Postpone and Grafton County Commissioners' Motion to Continue*, SEC Docket No. 2015-06 at 2–3 (April 7, 2017); *Applicant's Post-Hearing Memorandum*, 141–43.

[6] Eversource incorporates by reference here all of its arguments therein.

commissions shall hear all interested parties . . . [p]rovided, however, that such license may be granted without hearing when all interested parties are in agreement"). They failed to do so, did not submit comments to the PUC, and did not request a hearing—a requirement set out in the *Order Nisi Granting License*.[7] Their failure to make these arguments at the PUC constitutes a waiver.

The Town's argument that Eversource should have obtained an easement is also directly contrary to RSA 371:17, which specifically provides that:

> Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a pipeline, cable, or conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of this state, or over, under or across any of the land owned by this state, it shall petition the commission for a license to construct and maintain the same.

(emphasis added). The plain language of this statute requires the Applicant to obtain a license. If the legislature intended to require a public utility to obtain an easement (or some other interest in land) when crossing state land or waters, it would have imposed such a requirement. *See Appeal of Phillips*, 165 N.H. 226, 230 (2013) (statutes are construed by their plain and ordinary meaning without considering language that might have been added). Here, the statute only requires Eversource to obtain a license from the PUC pursuant to RSA 371:17. *See Dunbeck v. Exeter & Hampton Elec. Co.*, 119 N.H. 4, 7 (1979) (RSA 371:17 "is merely a licensing provision to permit utilities to cross public waters or lands which are not subject to power of condemnation").

[7] The *Order Nisi* in PUC Docket DE 16-441 required all persons interested in responding to this Order *Nisi* to "submit their comments or file a written request for a hearing which states the basis for a hearing no later than March 27, 2017, for the Commission's consideration." App. Ex. 154 at p. 8.

B. The PUC License Does Not Require Governor and Executive Council Approval.

The Town and CLF argue that Eversource should have received approval from Governor and Council to cross Little Bay. The grant of a license is not subject to RSA 4:40. A license is "not an interest in land" but rather, a "transient or impermanent interest" and "merely a revocable personal privilege to perform an act on another['s] . . . land." *Waterville Estates Ass'n v. Town of Campton*, 122 N.H. 506, 509 (1982) (citations omitted). Utility licenses are simply agreements to occupy and use public property. *New England Tel. and Tel. Co. v. City of Rochester*, 144 N.H. 118, 120–21 (1999).[8]

The Town and CLF also argue that the license disposes of property pursuant to RSA 4:40. "Disposal" of land means to "sell, convey [or] transfer." RSA 4:40, I. The grant of a license to a public utility does not dispose of State land.[9] Consequently, a grant of a license does not require approval of the Governor and Council and the Subcommittee's determination is well supported by the record and the law. *Decision*, at 71–74; Deliberation Tr. Day 1 AM at 12–15.

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[8] The Town cites to a Georgia Court of Appeals decision for the proposition that a license may become an "irrevocable use of the land." *Durham Motion*, at 4. The facts of that case, however, are inapposite and have no precedential value in New Hampshire. The appeals court was assessing whether an oral license for ingress and egress could ripen into an easement pursuant to a specific state statute governing the Statute of Frauds. The state statute provided that "[a] parol license is not revocable when the licensee has acted pursuant thereto and in so doing has incurred expense; in such a case it becomes an easement running with the land." *Decker Car Wash, Inc., v. BP Products North America, Inc.* 649 S.E.2d 317, 319 (Ga. Ct. App. 2007). Apart from the fact that the Georgia statute is different from the public utility licensing statute applicable here, the *Decker* court held that the oral license at issue did not ripen into an easement. The Town fails to cite any New Hampshire case law or statute that would apply to a legally issued license by the PUC. The Town also cites a New Jersey Tax Court case for the proposition that the PUC license is actually a "lease". *Durham Motion*, at 4. In that case, the tax court was determining whether an agreement between two parties necessarily removed the owning entity's tax-exempt status. Here, there is no question that the PUC issued a license (not a lease) pursuant to its statutory licensing authority under RSA 371:17. *Dunbeck*, 119 at 7. Moreover, the PUC license does not contain any of the other hallmarks of a lease, namely, a lease term, rent, compensation, or a contract for the exclusive possessions of lands.

[9] Contrary to the Town's position, the Project will not use state lands permanently—the Project will eventually be decommissioned should it no longer be deemed necessary by ISO-NE. *See Order and Certificate,* at 9 ("Further Ordered that in the event that the Project ceases to be used and useful, the Applicant shall be obligated to decommission the Project in accordance with then applicable rules of the Committee or a successor regulatory body; and it is, Further Ordered that the Applicant shall . . . (ii) promptly notify the Committee of any retirement obligation that arises; and (iii) submit to the Committee a decommissioning plan, that shall address decommissioning of the Project, including concrete mattresses, in accordance with then applicable rules, upon any imposition of a decommissioning obligation, or prior to the retirement of any part of the Project").

The entire statutory scheme found at RSA 371:17–371:23 does not explicitly or implicitly require approval from the Governor and Council for a license issued by the PUC—a fact omitted by the Motions. If Governor and Council approval was required for the PUC to issue a license, the statute would have explicitly stated as such. *Appeal of Phillips*, 165 N.H. at 230. Indeed, many other statutes explicitly require approval from the Governor and Executive Council.[10] RSA 371:17 is not one of them.[11]

C. The Parties' Mistakenly Rely on an Informal Letter from an Assistant Attorney General and a Repealed Statute.

The Town and CLF mistakenly rely upon an informal letter from an assistant attorney general. CLF Ex. 23. But the letter has no precedential value or weight of authority because it is not an official Opinion of the Attorney General.[12] Furthermore, the letter—dated February 9, 2012—relied on 371:22. But on June 19, 2013, that statute was repealed, striking any requirement that "any such license creating rights over, under, or across any of the lands owned by the state shall be evidenced by an instrument executed in the name of the state by the governor." Following that repeal, it has been the practice of the PUC to grant licenses to cross public lands and public waters without obtaining an easement or other interest in land as evidenced by a deed. *See Applicant's Post-Hearing Memorandum*, at 145–46.

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[10] *See e.g.*, RSA 432:31-a (requiring approval prior to the purchase of any agricultural land preservation restrictions or development rights in the name of the state); RSA 162-I:9 (requiring approval prior to the business finance authority acquiring interests in public facilities); RSA 230:13 (requiring approval for the laying out or alteration of a class I or class II highway); RSA 212:1-a (requiring approval prior to the state acquiring land by condemnation).

[11] The Town also argues that Eversource should have obtained approval from the Governor and Council for its wetland permit. The NHDES wetland permit does not contain any such requirement. Moreover, the Town overlooks a specific provision of the siting statute, namely, RSA 162-H:16, II, which specifically states that: "A certificate shall be conclusive on all questions of siting, land use, air and water quality." (emphasis added).

[12] The Attorney General is authorized to provide opinions on any question of law submitted by the Legislature and when requested, to provide advice to any state board, commission, agent or officer on questions of law relating to the performance of their official duties. RSA 7:7; RSA 7:8. CLF Ex. 23 is not addressed to either the Legislature or a state agency, nor is there any indication that it was requested. As a result, it binds no one.

D. The Applicant Informed the PUC of the Concrete Mattresses.

The Town repeats another erroneous argument it made previously, namely, that Eversource did not inform the PUC of its need to use supplemental protection for the underwater cables near the shore landing. *Durham Motion*, at 6–8; *Durham Post-Hearing Brief*, at 30. The Subcommittee fully considered these arguments during a discussion led by PUC General Counsel and Subcommittee Member David Shulock. *See* Deliberations Day 1, AM at 11–13; *Decision*, at 70–71. Moreover, the parties did not raise these issues before the PUC, and therefore, these arguments have been waived. *See supra* § I.A.

The PUC license issued to Eversource was expressly conditioned on "the requirement that Eversource constructs, installs, operates, and maintains, and, if applicable, alters the lines consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Code Admin. Rules Puc. 306.01, as may be applicable and as amended from time to time, and all other applicable safety standards in existence at that time . . . ." *Complete PUC Docket for DE 16-441*, App. Ex. 187 at pp. 72–73. In addition, the Applicant informed the PUC that if the required burial depth for the cable cannot be achieved, "supplemental mechanical protection will be used per the NESC to protect the cable and the public." *Complete PUC Docket for DE 16-441*, App. Ex. 187 at pp. 79– 80.[13]

[13] The Town argues that Eversource did not meet the statutory requirement that its application contain sufficient information to satisfy the requirements of each agency having jurisdiction over any aspect of the Project. The Town is wrong. The PUC and Subcommittee found that the Application met the requirements of RSA 162-H:7, IV and that the Application was complete. *See* PUC Letter from Debra Howland to SEC Administrator Pamela Monroe, Docket 2015-04 (May 13, 2016) ("Pursuant to RSA 162-H:7, IV, the Public Utilities Commission has conducted a preliminary review of the application and determined that it contains sufficient information for the PUC to conduct its review for issuance of licenses under the jurisdiction of the PUC."); *Order Accepting Application*, Docket 2015-04 (June 13, 2016) ("The PUC advised the Subcommittee that it conducted a preliminary review of the Application and determined that it contains sufficient information for the PUC to conduct its review for the issuance of licenses under the jurisdiction of the PUC.").

II. The Subcommittee's Delegation of Authority to State Agencies is Fully Compliant with State Law and Standard SEC Practice.

The Town and CLF argue that the Subcommittee's delegation of authority to state agencies is unlawful. *Durham Motion*, at 8–11; *CLF Motion*, at 15–16. This argument overlooks or ignores prior SEC precedent, and statutory provisions of RSA chapter 162-H that explicitly grant authority to the Subcommittee to delegate oversight to agencies with permitting and regulatory authority. Neither the Town nor CLF has advanced any new arguments that were overlooked or mistakenly conceived (*see e.g.*, *Durham Post-Hearing Memorandum*, at 31 to 32; *Newington Post-Hearing Brief*, at 54), the Applicant (*see Applicant's Post-Hearing Memorandum*, at 99–100) and the Subcommittee addressed all these arguments. *See Decision*, at 55–60.

A. The Subcommittee Correctly Adopted the NHDES Recommended Conditions.

As a preliminary matter, the Town and CLF claim argue that the permit conditions recommended by NHDES are unreasonable. RSA 162-H:7-a, I(b) provides that in SEC proceedings, state agencies having permitting or other regulatory authority may "[r]eview proposals or permit requests *and submit recommended draft permit terms and conditions to the committee.*" (emphasis added). RSA 162-H:16, I then states that "[t]he committee *shall* incorporate in any certificate such *terms and conditions* as may be specified to the committee by *any of the state agencies* having permitting or other regulatory authority, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility." (emphasis added).

The moving parties fail to acknowledge that the permit conditions that are raised in their Motions[14] were initially recommended by the underlying permitting agency. As a result, the Subcommittee was required to incorporate those conditions into the Certificate unless the Subcommittee desired to impose different conditions. RSA 162-H:7-a, I(e). The Town and CLF had ample opportunity to provide comments on the draft permit terms and conditions, and in fact did so. *See Applicant's Post-Hearing Memorandum*, at 85–86. NHDES disagreed with a number of the parties' comments and recommended changes, and the Town "was unable to explain why NHDES rejected some of its recommendations and failed to provide sufficient support for the Subcommittee to adopt them." *Decision*, at 169.

B. RSA 162-H Provides the Subcommittee with Explicit Authority to Delegate Oversight to State Agencies With Permitting or Other Regulatory Authority.

The moving parties fail to acknowledge that RSA 162-H:4, III-a provides that "[t]he committee may delegate to the administrator or such state agency or official as it deems appropriate the authority to specify the use of any technique, methodology, practice, or procedure approved by the committee within a certificate issued under this chapter." (emphasis added). Here, the Subcommittee approved NHDES's recommended permit conditions, *see* Comm. Ex. 12c, which authorize the Department to follow its standard practice to review, finalize, and approve monitoring plans immediately prior to construction to ensure compliance with the terms of the permit.[15] Here, the Subcommittee not did delegate any of its statutorily

[14] Such permit conditions range from delegating requirements to NHDES for water quality monitoring, shellfish monitoring, and conducting additional surveys for rare, threatened, and endangered species, to providing notification to the Division of Ports and Harbors and/or the Department of Safety Marine Patrol to ensure that the placement of concrete mattresses does not create a navigational hazard. In addition, the Town argues that it was illegal for the Subcommittee to delegate authority to Department of Transportation to issue required permits, licenses, and approvals in accordance with DOT policies, rules, and recommendations. However, such delegations are all reasonable and lawful pursuant to RSA 162-H:4, III-a.

[15] It is standard practice for NHDES to issue permit conditions that require Department approval of monitoring plans just prior to construction. *See e.g.*, *NHDES Final Decision and Conditions*, Application of Antrim Wind, Docket 2015-02 (July 26, 2016) (requiring the submission of a surface water quality monitoring plan, Spill Prevention,

required findings; it simply delegated the requirement of ongoing monitoring[16] to NHDES—consistent with typical agency practice.

The Town also argues that granting NHDES future approval authority to monitor plans "shuts all of the parties out of the process by not allowing them to review and comment on the results of the trial run." *Durham Motion*, at 9. This issue was explicitly raised by the Town in its *Post-Hearing Brief* at 31–32,[17] and fully considered and rejected by the Subcommittee.[18] Moreover, prior to the adjudicative hearings, Eversource submitted a draft of a majority of the required plans to NHDES and the parties, thereby providing all parties with a reasonable opportunity to review and provide comments. To the extent the moving parties have continuing concerns about the monitoring plans, they can submit additional comments to the Department for their potential consideration, as they have in the past.[19]

C. Delegation to NHDES to Oversee the Jet Plow Trial Run Was Lawful.

The Town and CLF erroneously argue that delegating oversight of the jet plow trial run to NHDES (which must be completed at least 21 days prior to construction) is unlawful. The

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Control, and Countermeasures plan (SPCC), and a plan to prevent water quality violations due to discharges of concrete wash water during construction, after permit issuance but at least 90 days prior to construction); *NHDES Final Decision and Conditions*, Application of Groton Wind, LLC, Docket 2010-01 (requiring the submission of a Construction BMP Inspection and Maintenance Plan, turbidity monitoring plan, SPCC plan, and a plan to prevent water quality violations due to discharge of concrete wash for NHDES approval at least 90 days prior to construction).

[16] RSA 162-H:4, III also specifically authorizes the delegation of authority to a state agency or official to *monitor* the construction or operation of an energy facility to ensure that the terms and conditions of the certificate are met.

[17] The Town and CLF also made similar arguments on other occasions. *See e.g.*, *Partially-Assented-to Motion Requesting a Suspension of the Proceedings and that the Parties be Included in DES/Applicant Discussions*, Docket 2015-04 (Aug. 21, 2018); *Joint Motion to Strike NHDES's Post-Final Decision Recommendation and Related Testimony*, Docket 2015-04 (Oct. 24, 2018). *See also Counsel for the Public's Response to the Joint Motion to Strike NHDES's Post-Final Decision Recommendations and Related Testimony* (Nov. 2, 2018) (sharing some of the concerns raised by Durham/UNH and CLF).

[18] *See e.g.*, Deliberations Day 4 at p. 93–98; *Decision*, at 38–39; 209–10 (acknowledging the Town of Durham's concerns regarding public comments; determining that the public is not precluded from providing comments to NHDES; finding that the NHDES has experience and expertise in reviewing and addressing plans, reports, and comments; concluding that an additional process before the Subcommittee for review, comments, and hearings would cause undue delay; and requiring Eversource to provide all plans to the SEC and post all plans on its website for public review).

[19] Tr. Day 13 AM at 181–82; *Decision* at 209 (the parties may provide comments and suggestions to NHDES).

SEC may delegate the authority to use *any* technique, methodology, practice or procedure that is approved by the Subcommittee. 162-H:4, III-a.[20] Oversight of the jet plow trial run was specifically requested by the Department and approved by the Subcommittee. There was no unlawful delegation.

The Town and CLF wrongly characterize the jet plow trial run as an initial evaluation of the jet plow procedure and argue that the Decision improperly delegates "important decision-making." The purpose of the jet plow trial run is simply to verify the accuracy of the model and make minor tweaks and/or adjustments based on installer equipment and personnel[21]—the Subcommittee has not delegated authority to NHDES to make statutory findings pursuant to RSA 162-H:16, IV. The Applicant also presented substantial evidence during the hearings demonstrating that the effects of the jet plow installation will be minimal and short-term, and that the construction will not have long-term impacts on Little Bay, the natural environment, or water quality. *Applicant's Post-Hearing Memorandum*, at 84–99. Delegating oversight of the jet plow trial run fully comports with RSA chapter 162-H.

III. The Subcommittee's Factual Findings and Conclusions Regarding Water Quality and the Natural Environment are Supported by Substantial Evidence in the Record.

The Town and CLF repeat many factual arguments about the Project's potential impact to the environment, *see e.g.*, *Durham Post-Hearing Brief*, at 8–16; *CLF Post-Hearing*

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[20] RSA 162-H:16, VII also provides the Subcommittee with the explicit authority "to condition the certificate upon the results of required federal and state agency studies whose study period exceeds the application period." Here, the Subcommittee simply conditioned the certificate upon a successful jet plow trial run to confirm that the construction of the Project will not cause water quality violations.

[21] *Applicant's Post-Hearing Memorandum*, at 97–99; Tr. Day 13 AM at 105–06 (Durham's own witness, Mr. Dacey agreed that the trial run would enable additional data to be collected to verify the modeling outputs); *Decision* at 170 ("The trial run should verify the accuracy of the modeling and should provide the opportunity to adjust the specifications for the jet plow operation if necessary."). In addition, and contrary to CLF's position, ESS Group, Inc. confirmed that the jet plow trial run is typically performed one to two weeks prior to installation and that the proposed distance of 1,000 feet is typical in the industry. Tr. Day 12 PM at 21–23; 72–78; 95–96.

Memorandum, at 3–15, all of which are not supported by the substantial record in this docket and were fully considered by the Subcommittee.[22] The Motions fail to acknowledge that the issuance of final permits by NHDES is *prima facie* evidence that the construction and operation of the Project will not have an unreasonable adverse effect on water quality. Indeed, as declared in a prior docket, "DES's approval of [a] Project demonstrates that the Applicant has fully satisfied state water quality regulations." *Applicant's Post-Hearing Brief*, Application of Groton Wind, LLC, Docket 2010-01 at 41 (emphasis added).[23]

As aptly pointed out in the Subcommittee's Decision: "The opposing parties did not provide any evidence that would demonstrate the Project's anticipated impacts. Instead, they criticized the accuracy of the Applicant's reports and plans." *Decision*, at 168 (emphasis added). The Motions fail to acknowledge that each of their arguments was previously raised and considered by NHDES. *Decision*, at 169. Indeed, the moving parties have made no showing that NHDES is wrong, have not explained why NHDES rejected some of their recommendations, and have failed to provide a sufficient basis for the Subcommittee to adopt the recommended conditions. *Id.*

A. Applicant's Sediment Dispersion Model Provides Substantial Credible Evidence that the Project Will Not Materially Affect Little Bay.

The evidence before the Subcommittee demonstrates that construction of the Project will produce a sediment plume that lasts less than a few hours in any given location, that there is limited potential for prolonged resuspension of sediment, and that there will be no cumulative increases in suspended sediment. *Applicant's Post-Hearing Memorandum*, at 91–92. The

[22] The Town's Motion simply rehashes old factual arguments, but does not cite to the record. CLF did not proffer a single witness during the proceedings to support their positions and their motion cites to isolated quotes without examining the record as whole.

[23] *See also supra* note 15. In the Antrim Wind and Groton Wind dockets, the SEC issued certificates for projects with multiple monitoring plans that had not yet been reviewed and approved by NHDES, and would only be submitted to NHDES 90 days prior to construction.

Applicant's evidence was vetted by Counsel for the Public's independent construction witnesses, who confirmed the accuracy of the model used for this Project. ESS Group, Inc. specifically testified that in their experience the Applicant's model is "conservative," that sediment concentrations in prior projects were less than what the model predicted, and that the dissipation rate of sediment is "quite rapid."[24] Lastly, the jet plow trial run will confirm the adequacy of the model and to ensure that the construction of the Project will not result in water quality violations.

B. The Applicant's Evidence Demonstrates that the Project Will Not Introduce Nitrogen, Contaminants, or Pathogens in Little Bay.

The Town and CLF[25] re-hash the same arguments regarding nitrogen, contaminants, and pathogens—issues that NHDES did not voice concerns about. They devoted a substantial amount of time on cross-examination and in their briefs to debating these issues and the Town submitted extensive comments to NHDES. The Subcommittee thoroughly considered these arguments during deliberations and in the final decision. *See e.g.*, *Decision*, at 162–65, 202–03, 207; Deliberation Tr. Day 3 at 6, 66–79, 97–104. Again, the Town and CLF are not able to show that NHDES unreasonably disregarded their comments, nor do they explain why the Subcommittee should have adopted more stringent standards. *Decision*, at 169.

By contrast, Eversource provided substantial proof that the construction of the Project will not adversely affect water quality or the natural environment.[26] While the moving parties make speculative arguments that the Project could release additional nitrogen or other bacteria into the water column, the Motions fail to provide any evidence demonstrating that construction of the Project would result in any unreasonable adverse effects.

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[24] Tr. Day 12 PM at 64–68; *Technical Review Report, Eversource Seacoast Reliability Project – Little Bay Crossing*, CFP Ex. 1-a at 12.

[25] CLF makes three separate nitrogen-related arguments, *see CLF Motion*, at 9–11, none of which include a single cite to the record. Given CLF has no evidence whatsoever to support its assertions, its arguments should be rejected.

[26] *See Applicant's Post-Hearing Memorandum*, at 94–97; 109–110; 127–28.

C. The Record Includes Overwhelming Evidence Supporting the Subcommittee's Conclusions On Eelgrass.

Eelgrass has not been present within nearly a mile of the Project corridor since at least 2012.[27] While CLF argues that the record does not support the Subcommittee's findings regarding eelgrass, it has not introduced any evidence demonstrating that the Project would impact eelgrass. The Project area will be re-surveyed for eelgrass during the growing season prior to in-water cable installation to confirm that eelgrass is not present.[28] Without ascertaining the degree to which eelgrass might return, the Subcommittee cannot assume that eelgrass would be impacted. *Decision*, at 207.

D. The Subcommittee Fully Considered The Potential For the Project to Impact Oysters and Public Health, and Reasonably Concluded That Installation of the Project will not Negatively Impact Public Health.

As discussed supra Section III.B., the Subcommittee fully considered the potential for the Project to introduce contaminants or pathogens into the water column. None of the moving parties submitted any evidence proving that construction of the Project would create such impacts. Instead, they merely speculated that the Project could cause an impact. The arguments of the Town and CLF are based merely on conjecture and NHDES did not share their concerns.[29] The Applicant's evidence, coupled with the NHDES permit conditions, provides substantial support for the Subcommittee's conclusion that construction of the project will not negatively impact public health from consumption of oysters.[30]

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[27] Tr. Day 5 AM at 92; App. Ex. 1 at 97–98.
[28] *Id.*; *see also NHDES Revised Final Decision*, Comm. Ex. 12c, Wetland Condition ¶ 41 (describing requirements of the eelgrass survey).
[29] *See Decision*, at 207–08 ("While being fully aware of Durham's concerns, NHDES decided not to require the Applicant to test oysters for pathogens.").
[30] *Applicant's Brief*, at 127–28. *See also* Comm. Ex. 12c, Condition 44 (a mixing zone will be established to ensure that aquaculture sites with active product will be protected).

IV. The Applicant's Communications with NHDES and the Issuance of the Revised Final NHDES Decision Are Consistent with RSA Chapter 162-H and Prior Permitting Practice.

For the fourth time, the Town argues that it was unlawful for NHDES to modify its recommended approval and permit conditions.[31] The Applicant responded to these arguments and fully incorporates the facts and arguments contained in prior objections and rulings made by this Subcommittee.[32] The Town offers no new facts or arguments that the Subcommittee failed to address.[33]

V. The Subcommittee's Determination That the Project Will Not Unduly Interfere With the Orderly Development of the Region is Fully Supported by the Record.

The Town asserts that the Subcommittee "ignore[d] the ways in which the Project will interfere with orderly development of the region," because it is contrary to precedent, namely, the order in Northern Pass Transmission, SEC Docket No. 2015-06. *Durham Motion*, at 15–18. According to the Town, "it is arbitrary, unreasonable and an error of law for the SEC to apply the

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[31] *See Partially-Assented-to Motion Requesting a Suspension of the Proceedings and that the Parties be Included in DES/Applicant Discussions,* Docket 2015-04 (Aug. 21, 2018); *Joint Motion to Strike NHDES's Post-Final Decision Recommendation and Related Testimony*, Docket 2015-04 (Oct. 24, 2018); *Durham/UNH Post-Hearing Memorandum*, at 35. *See also Counsel for the Public's Response to the Joint Motion to Strike NHDES's Post-Final Decision Recommendations and Related Testimony* (Nov. 2, 2018) (making similar arguments).

[32] *Applicant's Objection to Joint Motion to Strike NHDES's Recommendations and Related Testimony*, Docket 2015-04 (Nov. 2, 2018) and the *Applicant's Objection to Counsel for the Public's Motion to Strike NHDES's October 29, 2018 Revised Final Decision*, Docket 2015-04 (Nov. 9, 2018); *Applicant's Post-Hearing Memorandum*, at 151. *See also Order on Motion to Suspend*, Docket 2015-04 (Aug. 28, 2018) (denying the Town's request to make discussions with NHDES open to the public or to prohibit such discussions and holding that nothing in RSA 162-H prohibits the Applicant from continuing communications with NHDES following the issuance of NHDES's final recommendations); *Order on Motions to Strike*, Docket No. 2015-04 (Nov. 20, 2018) (denying requests to strike NHDES Revised Final Decision).

[33] To the extent that the Town faults the Presiding Officer for sending a letter to NHDES requesting clarification of their Final Permit Conditions without the approval of the entire committee, such approval is not necessary. *See* RSA 162-H:4, V ("In any matter before the committee, the presiding officer . . . may hear and decide procedural matters that are before the committee, including procedural schedules, consolidation of parties with substantially similar interests, discovery schedules and motions, and identification of significant disputed issues for hearing and decision by the committee."). Moreover, the Town did not file any objection to the Presiding Officer's letter. To the extent the Town contends that it did not have a "meaningful opportunity to be heard" on the NHDES permit conditions, that argument is meritless. The NHDES Response to the Presiding Officer's Letter Dated August 10, 2018, was submitted to the SEC Service List on August 31, 2018. Comm. Ex. 12b. The Town had ample opportunity after the submission of August 31, 2018 letter to question both the Applicant's technical and managerial panel, as well as the Applicant's Environmental Panel.

law in such different ways to these two projects." *Id.* at 18. But the Town errs in concluding that the Decision in this docket is the unreasonable and unlawful one.[34]

Although complaining that this Subcommittee erred, but the Northern Pass subcommittee did not, the Town offers no specifics supporting that claim, and thus no basis for rehearing. First, the Town concedes that the Subcommittee was not required to deny a project that is inconsistent with municipal views. *Id.* at 16. It ascribes error because the Subcommittee "did not listen to and consider those views to the extent it should have in this case." *Id.* But the Town fails to provide any facts about how the Subcommittee erred by "not listening," or what it should have listened to. The best the Town can do is to say that Eversource "did little in the way of applying the SRP project to local ordinances and master plans." *Id.* at 18. Without some explanation of what it claims should have been done, there is no basis for reconsideration of the Subcommittee's Order.

The Town next argues that the Subcommittee erred because, contrary to testimony from Mr. Varney, the Project was contrary to the Town's master plan and zoning ordinance. *Id.* at 16–17. But even assuming this to be true, it would not require rehearing. The Subcommittee pointed out that even if the project was inconsistent with the Town's master plan or zoning

[34] Durham points to the brief of Eversource and Northern Pass to the Supreme Court (the "Brief") as supporting its claim for "disparate and inconsistent treatment of the two applications." *Durham Motion*, at 18, note 2. It seems to suggest that Eversource cited to the Decision in this Docket to support its appeal, and that Eversource was not entitled to do so since this Subcommittee's Decision had not been issued when the Northern Pass Order was decided. In fact, the Brief cited to this Subcommittee's deliberations (not the Decision) to demonstrate how this Subcommittee treated certain issues, as opposed to how the Northern Pass subcommittee treated—or failed to treat—similar issues. And both the deliberations and the Decision are matters of public record that are appropriate for consideration in the Supreme Court. Following issuance of the SRP Decision, Eversource and Northern Pass filed a Notice of Supplemental Authority providing the SRP Decision to the Court in support of its argument that this Subcommittee's treatment of issues was consistent with the requirements of RSA chapter 162-H and the SEC Rules, as a means of demonstrating why and how the Northern Pass subcommittee had erred. Durham's actual complaint is that this Subcommittee should have followed the Northern Pass Order—and the analyses—of the Northern Pass subcommittee. There are many reasons—factual and legal—why this Subcommittee may have chosen not to do so, and without providing the specifics of why the Northern Pass Order should have been followed, Durham has provided no grounds for rehearing.

ordinances, the "region"—for purposes of deciding whether this project "unduly interferes with the orderly development of the region"—was broader than just Durham and thus, that any inconsistency did not prevent a finding that there was no undue interference.[35] The Town fails to explain why inconsistency with a plan or an ordinance in one town within a defined region would constitute undue interference with the orderly development of that region.

Third, the Town cites language from the Northern Pass Order stating that "there are places along the route where [that] Project would create a use that is different in character nature and kind from the existing use…[and] would have a substantially different effect on the neighborhood than the existing transmission facilities." *Id.* 17. The Town claims that "[t]his description is extremely applicable here." Even if this were a basis for the Northern Pass subcommittee's Order (and it was not, since the Order was based on an alleged failure to satisfy the burden of proof for allegedly failing to identify the possibility of such areas), and even if that applicable standard in the SEC Rules was whether a transmission line "would have a substantially different effect on the neighborhood" (and it is not, since the standard is whether a project is inconsistent with prevailing land uses, Site 301.09(a)), the Town fails to identify any locations or areas along the route of this Project, where the application of these standards should be applied or where, if they were applied, this Project would require a finding of undue interference with orderly development. Accordingly, the Town has offered no grounds for reconsideration.[36]

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[35] The Subcommittee rightfully determined that the "region" for this Project is not limited to the municipalities where construction will be conducted; the region encompasses the entire Seacoast Region that the Project will serve. *Decision*, at 271; 313.

[36] CLF incorrectly argues that the Subcommittee failed to address the Great Bay Estuary in its assessment of orderly development of the region. A review of the deliberation transcripts and the Decision clearly demonstrate that Little Bay and the Great Bay Estuary were fully considered in the Subcommittee's assessment of the Project. *See e.g.*, Tr. Day 5 AM at 22–24 (determining no impact to tourism on Little Bay); Tr. Day 5 PM at 46; 81–82 (considering findings on historic resources, aesthetics and water quality when assessing land use and orderly development); Tr. Day 1 PM at 86, 93, 103–116, Tr. Day 2 AM at 7–10 (discussing aesthetic impacts to Little Bay and assessing

VI. RSA 162-H Does Not Require the Subcommittee to Find that There is a "Need" For the Project.

The Town appears to argue that the Subcommittee needs to find that there is a "need" for the Project.[37] *Durham Motion*, at 16–17. As a matter of law, the Subcommittee is no longer required to make such a finding as the Legislature has repealed RSA 162-H:16, V(a), which required a finding of the present and future need for electricity. *Applicant's Post-Hearing Memorandum*, at 151–55. As a factual matter, the evidence in the record clearly demonstrated that there is an immediate need for additional transmission capacity in the Seacoast region, that ISO-NE identified the Project as the preferred solution to ensure the safe and reliable delivery of electricity to the Seacoast region, and that ISO-NE expects the Project to be constructed. *Id.*; *Decision*, at 313–315.

The Town also appears to argue that the Subcommittee's reliance on ISO-NE to identify needs and solutions for the region is "another improper delegation of responsibility and authority." The Town is wrong. ISO-NE is the independent, not-for-profit company authorized by the Federal Energy Regulatory Commission to operate the regional electric grid, oversee the wholesale electricity market, and ensure that New Hampshire's electricity needs are met. *Applicant's Post-Hearing Memorandum*, at 152. ISO-NE is charged with conducting comprehensive system analyses and planning, assessing power system requirements 10 years into the future, and identifying adequacy of resources to ensure reliable delivery of electricity. *Id.*

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mitigation); Tr. Day 4 at 61–82 (discussing whether additional testing should be required for sediment in Little Bay and finding that additional testing was not necessary because DES did not recommend that such action be taken). *See also Decision,* at 166, 168, 176–77, 188, 196–97, 204. In fact, the Decision specifically states that while construction "will cause some permanent and temporary impacts on Little Bay[,] such impacts . . . will be effectively minimized and mitigated." *Id.* at 256. Indeed, the "Subcommittee received no evidence indicating that the[se] construction impacts, as mitigated, will rise to the level of unduly interfering with the orderly development of the entire region." *Id.*

[37] The Town made identical arguments in its Post-Hearing Memorandum at pp. 32–35. The Town of Newington also raised numerous arguments regarding the "need" for the Project, *see e.g.*, *Pre-Filed Testimony of Denis Hebert*, New Ex. 1 at 15–21, that were fully vetted and considered by the Subcommittee.

The SEC, on the other hand, is charged with assessing the impacts of siting of energy facilities and the SEC routinely relies on ISO-NE to identify needs and solutions to ensure the reliable operation of the regional electric grid. *See e.g.*, *Decision and Order Granting Application for Certificate of Site and Facility*, Joint Application of New England Power Company and Public Service Company of New Hampshire, Docket 2015-05, at 58, 90 (Oct. 4, 2016) (stating that the "Project is a reliability project that has been determined by ISO-NE to be necessary to assure continued system stability and reliability to the region"; that "[t]he ISO-NE has determined that the Project is a necessary reliability project"; and that "[t]he entire New England region needs the Project to ensure an adequate supply of energy in the region."); *see also* App. Ex. 184, Stipulated Findings of Fact ¶¶ 2–3.

To the extent the Town is arguing that the SEC should have consulted with ISO-NE prior to issuing a Certificate, this issue was argued and briefed by many parties throughout the proceedings. *See Town of Newington's Partially Assented-To Motion to Consult with ISO-New England*, Docket 2015-04 (Nov. 22, 2017); *see also Town of Durham / UNH Post-Hearing Brief* at 32–34. The SEC held a hearing specifically to consider whether ISO-NE should be consulted and determined that such consultation was not necessary. *Order on Partially Assented-To Motion to Consult with ISO-New England*, Docket 2015-04 (April 24, 2018). In that Order, the SEC concluded that it was unnecessary to consult with ISO-NE because the Applicant continues to update its filings with ISO-NE and ISO-NE has not indicated that any information submitted by the Applicant would render the Project obsolete. *Id.* at 3.

VII. The DES-Issued Wetlands Mitigation Package Is Only Contingent Upon the Payment of Monies Into the Aquatic Resource Mitigation Fund.

The Town argues that the Committee should grant a rehearing because the wetlands mitigation package initially considered by NHDES cannot be specifically earmarked for Wagon Hill shoreline restoration. These arguments fail for a number of reasons.

First, the NHDES wetlands permit is only specifically conditioned upon payment of $349,834.26 into the Aquatic Resource Mitigation Fund ("ARM Fund"). Comm. Ex. 12 C, Condition 67. While Eversource engaged in discussions with Durham (and Newington) to develop potential projects for the use of those mitigation funds, the NHDES permit only provided that "the mitigation package may include the designation of mitigation funds to the Town[ ] of Durham." (emphasis added). Comm. Ex. 12 C, Condition 68. The ARM Fund is a competitive bid process. *See* N.H. Code. Admin. R. Env-Wt 808, *et seq.*[38] NHDES cannot guarantee that funds paid to that Fund will be used in any particular way. *See e.g.*, Tr. Day 5 AM at 46–48. Indeed, the Applicant's witness, Ms. Sarah Allen, specifically stated that:

> for mitigation[,] [Eversource] is essentially paying into the Aquatic Resource Mitigation Fund for an in lieu of fee payment. The towns, meaning specifically meaning Durham and Newington, have asked that that mitigation go to specific projects within their town. The DES agreed to consider those, and we provided information on those.

(emphasis added). Tr. Day 5 AM at 46. Ms. Allen further made clear that the ARM Fund is "basically outside of Eversource's control" and that "[o]nce Eversource has paid into the Aquatic Resource Mitigation Fund, and presumably those projects will be approved by NHDES to distribute the funds, at that point the responsibility for completing the project falls to the town."

[38] Env-Wt 808.07 and 808.08 establish eligibility criteria for restoration, enhancement, or conservation projects. NHDES cannot award money from the ARM Fund without meeting the requirements laid out in either Env-Wt 808.07 or 808.08. Moreover, RSA 482-A:32, I and Env-Wt 808.17 establish a Site Selection Committee, to identify projects to be funded from the ARM Fund.

Id. at 49. While Eversource has been working with the Town to develop plans for the use of ARM Funds, the Committee did not make any specific findings regarding the Project's impact on water quality that were dependent in part or in whole on a identified mitigation package for the Town.

Second, the NHDES wetland permit plainly states that if the proposed mitigation funds "cannot be achieved the funds will revert to the ARM Fund for issuance during a future competitive grant round." Comm. Ex. 12 C, Condition 73. Here, the Town has alleged that the proposed mitigation package contained in the Application and the NHDES permit cannot be executed due to conditions outside of the Applicant's control. Because the mitigation package cannot be achieved—a situation already contemplated by NHDES—the funds will revert directly back to the ARM Fund for issuance during a future competitive grant round. If the Town wishes to enter that competitive grant process, it is free to do so.

Third, to the extent there are any questions about NHDES's authority to make minor modifications to specific permit conditions, the Department is authorized by the Certificate to "specify the use of any appropriate technique, methodology, practice or procedure approved by the Subcommittee within the Certificate, as may be necessary, to effectuate conditions of the Certificate [and] the Wetlands Permit . . . ." *Order and Certificate*, at 3.

Lastly, the Applicant contemplated that changes to the ARM Fund may be necessary, and as such, the Subcommittee implemented a condition requiring the Applicant to "use the State's Aquatic Resource Mitigation (ARM) Calculator to determine the final amount of mitigation funds necessary to comply with the in-lieu fee program and shall make the required payment to the ARM Fund prior to the commencement of construction." The Decision does not specifically condition its approval on specific mitigation measures in the Town. Indeed, the Decision does

not directly tie any of its ultimate conclusions on water quality, or any other statutory finding, to the mitigation proposed at Wagon Hill Farm in the Town.

VIII. The Abutters Fail to Raise any Issue that was Overlooked or Mistakenly Conceived.

The Abutters claim that there is "no evidence in the record concerning which New Hampshire properties would be adversely affected by the Project, and by how much." *Abutters' Motion*, at 4. This assertion assumes, of course, that Eversource was required to show the Project's impact on specific properties and to quantify that impact for each such property.[39] In fact, the SEC Rules require only that Eversource include in its application an "assessment of...the effect of the proposed facility on real estate values in the affected communities." Site 301.09(b)(4). The fundamental problem with the Abutters' argument is that they fail to tie the alleged errors in the Subcommittee's Order to any section of RSA 162-H:16 or the SEC Rules.

The Abutters are correct that RSA 162-H:16 requires that a subcommittee consider and weigh the impacts and benefits of a project. But they do not explain how the Subcommittee allegedly failed in that task by pointing to any specific facts the Subcommittee did not consider and how, if those facts had been considered, they would have required a different result when measured against applicable standards in the statute or Rules. Instead, the Abutters create an elaborate argument—never raised before the Subcommittee—that the Order constitutes an improper delegation of authority, an improper shifting of the burden of proof to property owners,

[39] The Abutters also inaccurately argue that the Subcommittee's Decision does not state facts supporting its decision. *Abutters' Motion*, at 3–6. Among other holdings, the Subcommittee concluded that: (1) although the Subcommittee is not required to evaluate the impact of the Project on aesthetics of private properties, it reviewed several visual simulations for privately owned properties and determined that the Project will not be unreasonably adverse in those locations; (2) the Applicant conducted a comprehensive outreach campaign to identify concerns raised by various parties; (3) the Applicant agreed to various conditions to remedy potential impacts on private properties (including the Darius Frink Farm), including commitments to develop vegetation planting plans; (4) the Applicant entered into MOU's with Durham, UNH, and Newington (all of which also have conditions relating to private properties); and (5) the Dispute Resolution Process will minimize and mitigate potential impacts from the Project. *Decision*, at 115; 323–325.

a secret proceeding in violation of RSA chapter 91-A, and an unconstitutional violation of the separation of powers, all by virtue of providing an optional Dispute Resolution Process for property owners to seek relief if their property values are impacted. *Id.* These arguments are meritless.

First, the Abutters once again fail to identify any section of RSA chapter 162-H or the Rules upon which their assertions rest. As for the Dispute Resolution Process, it is a means of alleviating potential impacts on private property, including real estate values, relative to the standard of "undue interference with orderly development of the region." RSA 162-H:16, IV(b) and Site 301.09 and 301.15. The Subcommittee was not delegating authority at all. Rather, it was simply imposing a mitigation condition. The Abutters fail to explain why the Subcommittee could not condition the Certificate on such a process.

Second, no landowner is required to participate in the Dispute Resolution Process and the SEC has no authority to require any landowner to do so. *See Decision*, at 14 (explicitly stating that "[t]he Dispute Resolution Process is not mandatory"). The SEC can and did, however, provide an approach for addressing potential impacts. Any landowner can ignore this process and seek judicial redress should they so choose.[40] Rather than a "substitute for the SEC's balancing of adverse impacts of the Project," the Dispute Resolution Process simply offers a voluntary method to alleviate impacts to property.[41] If the Abutters were correct, the SEC (and

[40] The Abutters argue that the two-year limitation on filing a claim pursuant to the Dispute Resolution Process and the requirement that a landowner waive their right to file suit if a claim is submitted through Dispute Resolution Process are unlawful and unreasonable conditions. This argument fails to acknowledge that the Dispute Resolution Process is entirely voluntary. Neither the Subcommittee nor the Applicant are forcing any landowner to do anything against their will. The Dispute Resolution Process is meant to establish a swift process by which landowners can seek compensation without going through a long, drawn-out, and complicated legal battle. Of course, if a landowner does not want to use the Dispute Resolution Process, the landowner is free to file suit in a court of competent jurisdiction within the applicable statute of limitations.

[41] The Abutters' RSA chapter 91-A arguments are also without merit. If a landowner enters into the dispute resolution process, and it proceeds to an eventual mediation or a hearing on the merits, such additional legal process is not before the SEC—it is before an independent third party (either a mediator, attorney or retired judge

the Subcommittee) would be required to determine specific property rights by deciding the loss in value of each affected property and awarding damages. Apart from the fact that SEC proceedings would then take years, the SEC has no jurisdiction to evaluate or adjudicate individual property rights or claims. Rather, as the Town points out in its Motion, the "authority to decide property rights issues rests with the Courts, not the SEC." *Durham Motion*, at 5.

IX. Conclusion

The Motions fail to identify how any finding the Subcommittee made is unlawful or unreasonable, fail to identify any issue the Subcommittee overlooked or mistakenly conceived, and they fail to identify any new evidence, let alone evidence that was not available during the adjudicative hearing. Instead, the Motions simply rehash arguments previously made in pre-filed testimony, at the hearing and in post-hearing briefs. As a result, the Motions should be denied.

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independent from the SEC). The documents exchanged between Eversource, the landowner, and the third party would not be provided to the SEC; therefore, the exchange of any documents between those parties is not subject to 91-A and the confidentially provisions in the Dispute Resolution Process are lawful and reasonable. The only publicly available information subject to 91-A would be the quarterly report of the Dispute Resolution Fund made to the SEC Administrator.

WHEREFORE, the Applicant respectfully asks that the Committee:

a. Deny the Town of Durham's, Conservation Law Foundations, and the Durham Abutters' Motion for Rehearing; and

b. Grant such other further relief as is deemed just and appropriate.

Respectfully Submitted,

Public Service Company of New Hampshire d/b/a Eversource Energy

By its attorneys,

McLANE MIDDLETON
PROFESSIONAL ASSOCIATION

Dated: March 8, 2019

By: _____

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Certificate of Service

I hereby certify that on this 8th day of March 2019, an electric copy of this Combined Objection was electronically sent to the New Hampshire Site Evaluation Committee and served upon the SEC Distribution List.

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Barry Needleman