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Sudbury Board of Selectmen
278 Old Sudbury Road
Sudbury, MA 01776

Re: Request by NSTAR Electric Company d/b/a Eversource Energy for Grants of Location Response to Outstanding Questions

Dear Chairman Dretler and Board Members:

This letter responds to questions posed during the December 15, 2020 public comment hearing conducted by the Sudbury Board of Selectmen (“Board”) regarding the February 12, 2020 Petition of NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or “the Company”) for grants of location pursuant to G.L. c. 166, § 22. The grants of location (“GOLs”) are required for four short street crossings (Dutton Road, Peakham Road, Horse Pond Road, Union Avenue) in connection with the Company’s construction of a 115-kilovolt (“kV”) underground electric transmission line (the “New Line”) along a disused right-of-way (“ROW”) owned by the Massachusetts Bay Transportation Authority (“MBTA”) (“MBTA ROW”) in Sudbury.

Before addressing the questions and comments from the GOL hearing, the Company notes its disagreement with the timing of the Board’s next scheduled hearing for the GOL, which was set by the Board for April 6, 2021. The Company filed its GOL application on February 12, 2020 and the first hearing was delayed for ten months until December 15, 2020. While the Company understands and appreciates the challenges of conducting business during the pandemic, we are also aware of the accommodations made by Sudbury and other cities and towns to perform many permit reviews during this timeframe. As examples, it appears that other town agencies in Sudbury, such as the Conservation Commission, the Planning Board and the Board of Appeals, have been processing various permit requests over the past year in typical fashion (albeit with virtual hearings). Notably, prior to the pandemic, the Company obtained GOLs from the Town of Hudson on January 27, 2020 for construction of the New Line along 1.5 miles of public roads, only three weeks after the application was filed with the Hudson Board of Selectmen. For these reasons, the Board’s decision to delay the next GOL hearing until April 6th is insupportable given the limited scope of the requested GOLs. We, therefore, believe that prompt action on the Company’s GOL application, without undue delay as has already been experienced, is warranted. Accordingly, the Company respectfully requests timely review of its GOL application, specifically setting the date for the next hearing in January 2021 and completion of the GOL process expeditiously thereafter.

Following below are the Company's responses to the questions and comments from the December 15th hearing that are within the relevant scope of the GOL process.

The Town's Director of Public Works, Daniel Nason, commented and asked questions regarding the Company's petition for a GOL. The following summarizes Mr. Nason's statements and provides a response.

- Mr. Nason notes that road closures in Sudbury are authorized by the Department of Public Works, not the Police Department.

The Company will coordinate road closures with the Department of Public Works ("DPW"), as directed by Mr. Nason, and other relevant Town officials.

- Mr. Nason asked about the timeline for the work proposed by Eversource on Dutton Road so that it does not conflict with the Town's plan for construction on the Dutton Road bridge.

Eversource will work with the DPW director to schedule Project work on Dutton Road to avoid conflicts with the Town's bridge project. Eversource expects the Project work at Dutton Road to take approximately 1-2 weeks to complete.

- Mr. Nason noted that all signage and detail officers will be the responsibility of Eversource.

The Company, through its Contractor, will provide reasonable signage as provided in the Temporary Traffic Control Plans provided in Exhibit E to the GOL Application and will pay the expense of reasonable police details.

- Mr. Nason noted that road plates cannot be used during the winter months.

The Company and its Contractor will schedule the work such that road plates will not be needed during winter months. Eversource notes that Section I(A)(1) of the Town's Road Opening Rules allows for work to be performed between November 1 and April 1 with the written permission of the DPW director. Eversource expects the work at each road to take 1-2 weeks to complete.

- Mr. Nason notes that curb-to-curb paving 25 feet in each direction will be required upon completion of the construction.

Eversource will comply with the Town's Road Opening Rules and Regulations and the Massachusetts Department of Public Utilities' Road Restoration Standards as set forth in D.T.E. 98-22.

Board members, other Town officials and members of the public asked numerous questions about the Company's GOL petition during the public hearing. The following summarizes those questions and provides a response from the Company.

- What happens if the GOL is approved?

A GOL will provide Eversource the legal right to place its duct bank within the four roadways, in accordance with the plans submitted with Eversource's GOL application. Nevertheless, Project construction will not begin until all applicable permits are obtained.

- What happens if the GOL is not approved?

If the GOLs are not approved, Eversource will seek recourse through other legal means available to it.

- Why does the Petition ask for permission to place the wires and cables “over” the roadways? Will the Project be overhead at these crossings?

No, the New Line will be not be constructed overhead. But for three bridge crossings, it will be constructed entirely underground, including at the road crossings, in accordance with the plans submitted by the Company with its GOL application.

- Why would Eversource seek this the GOL when there are other permits needed for the Project and the Project is still under appeal?

It is common practice to seek permits in parallel with each other, especially when permits are independent of each other. This is the only way that projects that require a multitude of federal state and local permits, such as the one proposed by the Company, can be permitted and ultimately constructed in a timely manner. The scope covered by this GOL permit is independent of all other permits for the Project and, thus, cannot and should not be delayed until other permits are issued. In any event, construction of the Project will not begin until all relevant permits are received; thus, the granting of any single permit does not authorize the Project to proceed.

While the final decision of the Energy Facilities Siting Board (“EFSB”) approving the Project pursuant to G.L. c. 164, §§ 69 and 72 and the Certificate of the Secretary of the Executive Office of Energy and Environmental Affairs on the Company’s Final Environmental Impact Report under the Massachusetts Environmental Policy Act have been appealed, those appeals do not affect local permitting for the Project. Notably, those decisions are in full force and effect despite the pendency of the appeals. Moreover, the timing of the receipt of other permits is not pertinent to the Board’s review of the Company’s GOL application.

- Shouldn’t the Board wait until all other permits are issued to see what how those permits may impact the granting of this permit?

No. None of the other permits being sought is applicable to the granting of the right to place the transmission line under the four public ways covered by the application. The GOL permit is independent of all other permits applicable to the Project. The Board is required to review the Company’s GOL application in a timely manner regardless of the status of other permits.

- Will the proposed work interfere with school bus routes?

No. Eversource will coordinate the work with the DPW so as to not interfere with school bus routes along the affected roadways.

- What equipment will be stored in the area during construction? Where are the proposed lay down areas?

Lay down areas will not be established until a Contractor is selected and the work can be planned. Such areas will comply with all permits and permit conditions. Eversource would agree to a condition that no equipment will be stored within the public way at the four road crossings.

- Who is responsible for fixing potholes or other damage in the excavated areas six months down the road? What happens if there is a problem three years down the road?

Roads will be restored in accordance with the Town's regulations as set forth in the Town's Road Opening Rules and Regulations and the Massachusetts Department of Public Utilities' Road Restoration Standards as set forth in D.T.E. 98-22; thus, there is no reason to expect future repairs will be required. Should a repair be required, Eversource will be responsible for the repair if required by the applicable regulations.

- Will there be additional tree removal needed on either side of the road for the roadwork?

No. Although some small diameter woody brush and other low growing vegetation will be removed, no public shade trees or stone walls are expected to be removed within the Town's right-of-way to install the duct bank at the four road crossings covered by the GOL application.

- What are the 200-foot poles at each road section that were mentioned?

There are no poles proposed within the GOL area or anywhere along the Project route. The New Line is entirely underground.

- Any vote to approve this permit should be conditioned on the outcome of the Appeals and receipt of all other permits.

The GOL should not be conditioned on the outcome of either pending appeal. The approvals that are the subject of those appeals are in effect unless they are remanded or overturned by the reviewing court. The Company is entitled to have its permit applications reviewed and acted on in a timely manner independent of appeals or the status of other permits.

- It is premature to issue this permit before all other permits have not been issued.

It is not premature to grant the GOL. As noted above, the scope covered by this GOL permit is independent of all other permits for the Project and, thus, cannot be delayed until other permits are issued. Construction of the Project will not begin until all applicable permits are received; thus, the granting of the GOL does not authorize the Project to proceed.

- Is there a concern for soil contaminants, such as perfluoroalkyl substances (“PFAS”)?

The Company conducted a due diligence investigation for the Project that included the standard evaluation of potential impacts to soil and groundwater associated with former operations in a railroad right-of-way, as well as evaluation of sites adjacent to the ROW that have been identified as oil and/or hazardous waste sites pursuant to G.L. c. 21E. The evaluation did not identify any significant potential for impacts to soil or groundwater in the project work zone (including both the MBTA ROW and public ways) that would be subject to special handling requirements. A Soil and Groundwater Management Plan is being developed to establish protocols for evaluating and addressing soil or groundwater encountered during construction if the material exhibits signs of contamination (e.g., odor, sheen, etc.).

In addition to the questions and comments above, a number of questions and comments posed by Board members and the public at the hearing were not within the subject matter of the GOL petition and are, therefore, outside of the scope of the Board’s review. In the spirit of cooperation and information sharing, the Company will provide brief responses to these comments. However, these questions/comments and related responses should not be a factored into the Board’s decision to grant, condition, or otherwise deny the GOL petition. The Company’s responses are for informational purposes only.

- Would Eversource provide a grant or other compensation to support installation of solar panels at the schools as a condition of receiving this permit?

The Company assumes that this question is unrelated to its GOL request because the standards and provisions of GOLs have no such requirement and cannot be conditioned in this manner.

- Is the entire project underground, with the exception of the bridges?

The Project consists of the New Line and work at the Sudbury and Hudson Light & Power Department substations. The New Line will be entirely underground except where it attaches to the bridges at each of the three bridge locations.

- The Project raises concerns of contamination of water supply and irreparable damages to historical resources.

Excavation of the public ways that are the subject of this GOL application will not adversely impact water supplies and historic resources. Potential impacts to water supply and historical resources were thoroughly examined by the EFSB in its review and approval of the Project. In addition, potential impacts to water supplies and historic resources from construction of the Project as a whole, if any, are being addressed under other permit applications being considered by the Town of Sudbury Conservation Commission, the Town of Sudbury Planning Board, and the United States Army Corp of Engineers.

- Concerns that Eversource won't do what it says it will do.

Eversource will be obligated to construct the Project in accordance with the plans approved by the various permitting agencies and in accordance with all permit conditions and requirements. The Project, as approved by the EFSB, is for the construction of an underground transmission line and related station upgrades.

- What are the mitigation plans to protect the environmental resources?

There is no impact to environmental resources and thus no mitigation is required for the work covered under the requested GOL. Mitigation plans for wetland and stormwater for the entire Project are the subject of the permit applications under consideration by the Town of Sudbury Conservation Commission, the Town of Sudbury Planning Board, and the United States Army Corp of Engineers and will be included in the final orders issued by those permitting authorities.

- To what degree is the MBTA ROW compatible with rail trail activity?

The MBTA granted a lease to DCR for construction of the rail trail along a portion of the MBTA ROW. Rail trails are a common amenity on disused MBTA rights-of-way.

- We understand that the MBTA agreement says if the MBTA requests it, Eversource would have to relocate its transmission line. Is this true? What would the process be? Who would pay for it?

Eversource and the MBTA are parties to an Option Agreement under which the MBTA agrees to grant Eversource the right to acquire a permanent, non-exclusive, subsurface easement along the MBTA ROW for the purpose of constructing, operating, and maintain the New Line. The MBTA reserved the right to relocate all or any portion of the New Line to another location within the easement after the expiration of 20 years. If the MBTA were to execute this right, the cost to relocate the New Line within the easement would be subject to regulatory approval.

- Will the Project deter the MBTA from building a railroad?

The Company assumes that MBTA has retained any right it expects to need to use the MBTA ROW for rail service or other transportation use in the future.

- The status of the MBTA ROW is uncertain. It is referred to as an "inactive railroad ROW" yet MassDOT does not use such a term. What is the real legal status of the ROW at the federal and state levels?

The MBTA ROW is owned in fee by the MBTA. It has not been used for active rail service for over 40 years.

- What is the current in-service date for the Project? The current in-service date for the Project is December 2023. Because the Project continues to be needed to ensure reliable operation of the regional transmission system, Eversource is committed to completing the Project as soon as possible and in advance of the December 2023 date.
- Provide an example of an underground 115-kV line where pedestrians regularly walk on top of it and are exposed to EMF levels.

Underground transmission and distribution lines are located in cities and towns throughout our service territory and meet all applicable safety guidelines provided by recognized health organizations. The guidelines applicable to EMF established by world health organizations are designed to be protective of human health with an adequate margin of safety.

- Why isn't DCR at this hearing when they have been present at all other hearings? Why is DCR not a party to this permit when all other permits have been joint permits?

The GOLs are required for the sole purpose of allowing Eversource to place the New Line within the four public roadways identified in the Company's GOL petition. DCR has no role in the construction of the transmission line and, thus, is not a joint applicant.

- Is the BOS concerned with the final state of the Project? Is the BOS concerned with public safety?

The EFSB is the lead agency within the state with the full authority to review the safety of the proposed transmission line and to authorize its construction. For all of its transmission projects, Eversource also works closely with federal, state and local regulatory and permitting authorities, town/city officials and the community to ensure public safety and fulfillment of all related permit requirements.

- I heard in another meeting that the project will have an EMF level of 99 mG which exceeds the safe level of 85 mG set by the state. What is the difference between peak loading and average loading? I have calculated the EMF level at peak loading vs. average loading as used in the EFSB proceeding. Because 33% of the trail will have the line beneath it, will the milligauss level be higher than the state standard? How will Eversource address this?

As noted above, the EFSB is the lead agency within the state with the full authority to review the safety of the proposed transmission line and to authorize its construction. Please refer to New England Power Company v. Board of Selectmen of Amesbury, 389 Mass 69, 76-78 (1983) for a discussion of the EFSB's and its sister agency, the Department of Public Utilities', broad and, indeed, exclusive, authority to oversee the safety of proposed transmission line projects. In accordance with EFSB precedent, the Company modeled magnetic field values in milligauss ("mG") based on average annual loading and peak loading projected along the route. The best estimate of the magnetic field on any day is provided by calculations based on the annual average load. The maximum modeled magnetic field value is 24 mG along the ROW and 28 mG at manholes. These modeled

values for the Project are far below (and a small fraction of) well-established national and international guidelines for public exposure to EMF.

- What is the largest crane weight and height that will be used for the project? Will it cross the road?

There is no need for a crane to install the duct bank covered by this GOL application. Any cranes used for other parts of the Project will comply with all applicable state and local rules and regulations.

- Shouldn't the MOU with DCR be shared ahead of time?

The MOU between Eversource and DCR will not be finalized until all permits have been issued. Eversource and DCR have committed to share the MOU once it is executed.

- The Project cannot meet the wetland replication requirements of the Town's bylaws; therefore, it is not allowed to be constructed.

- The Project meets the requirement in the Town's wetland regulations for wetland replication. The specific details of that compliance are currently under review before the Conservation Commission.

- There hasn't been adequate testing of soil and groundwater along the project route to ensure the safety of the Project.

The small amount of soil that will be excavated to install the duct bank in the road crossings will be direct loaded onto trucks and taken to licensed off-site soil facilities. Standard best management practices will be in place to manage soil from the excavations in public ways.

Eversource's investigation of soils within the MBTA ROW and due diligence evaluation of Chapter 21E sites adjacent to the MBTA ROW along the Project route did not indicate any contamination that would require further investigation prior to construction. A Soil and Groundwater Management Plan is being developed to establish protocols for evaluating and addressing soil or groundwater encountered during construction that exhibits signs of contamination (e.g., odor, sheen, etc.).

- Eversource claimed in the EFSB proceeding that excavating in the road posed a greater risk of contamination than the ROW and said there was lead in the soil from the automobiles that used gasoline. Since Eversource thinks these pose a threat, additional testing should be at the street crossings in the interest of public safety.

The comment made during the EFSB proceeding was referring to the general recognition that soil along public roads inevitably contains background materials from automobile exhaust, just as soils along former railroad ROWs may contain low levels of residual materials from former railroad operations. However, neither public roads nor railroad ROWs are typically found to contain significant levels of contamination absent a known substantial release of oil or hazardous materials from an event such as an accident or tank

failure. The potential existence of background materials in soils along public roads or the MBTA ROW will not pose a threat to public safety during construction of the Project.

- The Town should investigate the \$300,000 offer made to the Conservation Commission by Eversource.

The proposed funding was offered by Eversource as a mitigation measure to improve conditions on wetlands adjacent to the ROW by removing large areas of invasive species. The Conservation Commission is evaluating the proposal.

- The Historical Commission thinks there is historical stuff in the road and along the route that need further exploring.

Eversource and DCR have met several times with the Sudbury Historical Commission to review and discuss the historical elements of the railroad ROW in the context of obtaining the Sudbury Historical Commission's consultation under Section 106 process for the Army Corps' permitting for the bridge replacement work. In any event, we are unaware of any historical artifacts in the roadways along the route.

The Company hopes the responses provided to the Board are helpful in addressing the inquiries made at the December 15th public hearing. As stated above, the Company looks forward to continuing to work with the Board to finalize its requested GOL. However, the Company renews its request for a timely follow-up hearing in January 2021 to facilitate the expeditious completion of the GOL permitting process in the Town.

If you have any questions on the above information and/or would like to discuss a more timely schedule for the next GOL hearing, please contact me.

Very truly yours,



David S. Rosenzweig

cc: Sean Southworth, Eversource
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