

**KEEGAN WERLIN LLP**

ATTORNEYS AT LAW  
99 HIGH STREET, SUITE 2900  
BOSTON, MASSACHUSETTS 02110

TELECOPIER:  
(617) 951-1354

—————  
(617) 951-1400

DAVID S. ROSENZWEIG  
E-mail: drosen@keeganwerlin.com

**REDACTED MATERIALS ENCLOSED**

November 8, 2019

Andrew Greene, Director  
Energy Facilities Siting Board  
One South Station  
Boston, MA 02110

Re: NSTAR Electric Company d/b/a Eversource Energy, EFSB 19-06

Dear Mr. Greene:

Enclosed are an original and five (5) copies of a petition by NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”), pursuant to G.L. c. 164, § 69J (“Section 69J Petition”), seeking approval from the Energy Facilities Siting Board (the “Siting Board”) to construct, operate and maintain an approximately 12.5-mile, overhead 115-kilovolt (“kV”) electric transmission line (the “New Line”) along an existing Eversource right-of-way (“ROW”) between Eversource’s Bourne Switching Station and West Barnstable Substation. The proposed New Line, which will travel through Bourne, Sandwich and Barnstable, together with the related station improvements, is referred to as the Mid Cape Reliability Project, or the “Project.”

Attachment A to the Section 69J Petition, entitled *Analysis to Support Petitions Before the Energy Facilities Siting Board – Mid Cape Reliability Project* (the “Analysis”), includes: (1) a detailed description of the Project; (2) an analysis of the need for the Project; (3) an analysis of the alternatives to the Project and its routing; and (4) an extensive review of the Project’s environmental impacts and proposed mitigation measures. In addition, the Analysis describes the Project’s consistency with the current health, environmental protection and resource use and development policies of the Commonwealth. In accordance with G.L. c. 164, § 69J and Siting Board precedent and standards, the Petition demonstrates that the Project will ensure a reliable supply of energy for the Commonwealth with the least environmental impact and at the lowest possible cost.

In conjunction with the Section 69J Petition, the Company is also filing with the Department of Public Utilities (the “Department”) on this date, petitions pursuant to G.L. c. 164, § 72 (the “Section 72 Petition”) (D.P.U. 19-142) and G.L. c. 40A, § 3 (the “Zoning Petition”) (D.P.U. 19-143). Consistent with precedent, the Company is filing a motion with the

Department requesting that the Section 72 Petition and the Zoning Petition be referred to the Siting Board for consolidated review with the Section 69J Petition for the Mid Cape Reliability Project. Accordingly, enclosed is a Motion for Consolidation.

- **The Need for the Project**

With respect to the need for the Project, the Mid Cape Reliability Project is part of a larger plan to reinforce the Southeastern Massachusetts transmission system and to bring the system into compliance with applicable national and regional reliability standards. The Project is one of approximately 25 individual transmission projects to emerge from an extended transmission study, the Southeastern Massachusetts and Rhode Island (“SEMA-RI”) Assessment, which was led by the Independent System Operator of New England (“ISO-NE”). The Project is needed to resolve potential thermal overloads and low voltage conditions that could result in the loss of electric service to the entire Cape Cod area and the islands of Martha’s Vineyard and Nantucket, totaling over 500 megawatts of load. Such an outage could affect over 200,000 customers in the Cape Cod area. The need for the Project is present at existing load levels and; thus, there is an immediate need for the Project in order to continue to reliably serve customers.

The Company also offers for the Siting Board’s consideration a variation in the Project design intended to provide flexibility for the future expansion of the electric system on Cape Cod to accommodate the likely need to interconnect new renewable energy generation. This “Noticed Variation” is to build the Project’s transmission structures to be capable of operating at 345-kV should the need for operation at that voltage materialize in the future. To meet the current identified need for the Project and to minimize the potential siting, cost, community and environmental impacts of building an entirely distinct 345-kV line or rebuilding the proposed 115-kV line to 345-kV standards in the future, the Company is presenting the Noticed Variation to build the Project to 345-kV standards but to operate it at 115 kV. If the Noticed Variation is approved and the need for the New Line to be operated at 345 kV materializes in the future, the Company would return to the Siting Board for permission to operate the line at 345 kV at that time.

- **Additional Project Filing Documents**

The Company notes that certain information contained in two appendices to Attachment A to the Section 69J Petition qualifies as Critical Energy Infrastructure Information (“CEII”) and must be protected from public disclosure. Appendix 2-1 (SEMA-RI Area Transmission Needs Assessment, May 2016) and Appendix 3-1 (SEMA-RI Transmission Solutions Study, February 2017) each contain CEII. Accordingly, this information has been redacted from the public filing in order to avoid disclosure of confidential information. The Company submits herewith a Motion for Protective Treatment of Critical Energy Infrastructure Information. Under separate cover, the Company is submitting five confidential (non-redacted) copies of Appendix 2-1 and Appendix 3-1 containing CEII under seal to the Siting Board.

In addition, enclosed herewith is:

- Notices of Appearance of Counsel;
- A consolidated Draft Notice of Public Hearing (hard copy and electronic version in MS Word format), premised on the expectation that the review of the Section 72 Petition and the Zoning Petition will be referred to the Siting Board and consolidated with the Section 69J Petition for review; and
- A flash drive of the entire filing.

In accordance with statutory requirements, the Company has forwarded a copy of the Petitions to the Towns of Bourne, Sandwich and Barnstable.

Please date stamp a copy of this letter and return it to the messenger for our files. Thank you for your attention to this matter.

Very truly yours,



David S. Rosenzweig

Enclosures

cc: Joan Foster Evans, General Counsel, Energy Facilities Siting Board (w/out att.)  
Mark Marini, Secretary, Department of Public Utilities (with att.)  
Shane Early, General Counsel, Department of Public Utilities (w/out att.)

**KEEGAN WERLIN LLP**

ATTORNEYS AT LAW  
99 HIGH STREET, SUITE 2900  
BOSTON, MASSACHUSETTS 02110

TELECOPIER:  
(617) 951-1354

—  
(617) 951-1400

DAVID S. ROSENZWEIG  
E-mail: drosen@keeganwerlin.com

**CONFIDENTIAL MATERIALS ENCLOSED**

November 8, 2019

Andrew Greene, Director  
Energy Facilities Siting Board  
One South Station  
Boston, MA 02110

Re: NSTAR Electric Company d/b/a Eversource Energy, EFSB 19-06

Dear Mr. Greene:

NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) is filing a petition today with the Energy Facilities Siting Board (the “Siting Board”), pursuant to G.L. c. 164, § 69J (the “Section 69J Petition”), seeking the Siting Board’s approval to construct, operate and maintain an approximately 12.5-mile, overhead 115-kilovolt (“kV”) electric transmission line (the “New Line”) along an existing Eversource right-of-way (“ROW”) between Eversource’s Bourne Switching Station and West Barnstable Substation. The proposed New Line, which will travel through Bourne, Sandwich and Barnstable, together with the related station improvements, is referred to as the Mid Cape Reliability Project, or the “Project.”

Attachment A to the Section 69J Petition is a report, entitled *Analysis to Support Petitions Before the Energy Facilities Siting Board – Mid Cape Reliability Project* (the “Analysis”). The following information contained in the Analysis qualifies as Critical Energy Infrastructure Information (“CEII”) and must be protected from public disclosure:

Appendix 2-1: SEMA-RI Transmission Needs Assessment (May 2016)

Appendix 3-1: SEMA-RI Transmission Solutions Study (February 2017)

Accordingly, this information has been redacted from the Analysis in the public filing in order to avoid such disclosure. Enclosed are five copies of unredacted Appendices 2-1 and 3-1, portions of which contain Confidential CEII. The Confidential CEII is being provided to you under seal subject to a Motion for Protective Treatment being filed today.

Letter to Andrew Greene  
November 8, 2019  
Page 2

Please date stamp a copy of this letter and return it to the messenger for our files. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "David S. Rosenzweig". The signature is written in a cursive style with a large, prominent initial "D".

David S. Rosenzweig

Enclosures

cc: Joan Foster Evans, General Counsel, Energy Facilities Siting Board (w/out att.)  
Mark Marini, Secretary, Department of Public Utilities (w/out att.)  
Shane Early, General Counsel, Department of Public Utilities (w/out att.)

COMMONWEALTH OF MASSACHUSETTS

ENERGY FACILITIES SITING BOARD  
DEPARTMENT OF PUBLIC UTILITIES

---

Petition of NSTAR Electric Company d/b/a )  
Eversource Energy Pursuant to G.L. c. 164, § 69J )  
for Approval to Construct and Operate a New ) EFSB 19-06  
115-kV Electric Transmission Line Between the )  
Bourne Switching Station and West Barnstable )  
Substation )  
\_\_\_\_\_ )

---

Petition of NSTAR Electric Company d/b/a )  
Eversource Energy Pursuant to G.L. c. 164, § 72 )  
for Approval to Construct and Operate a New ) D.P.U. 19-142  
115-kV Electric Transmission Line Through the )  
Towns of Bourne, Sandwich, and Barnstable )  
\_\_\_\_\_ )

---

Petition of NSTAR Electric Company )  
d/b/a Eversource Energy Pursuant to )  
G.L. c. 40A, § 3 for Individual and Comprehensive ) D.P.U. 19-143  
Exemptions from the Zoning Ordinance )  
of the Town of Barnstable )  
\_\_\_\_\_ )

**APPEARANCE OF COUNSEL**

I hereby appear for and on behalf of NSTAR Electric Company d/b/a Eversource Energy in the above-captioned proceedings.

Respectfully Submitted,



---

David S. Rosenzweig, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
Phone: (617) 951-1400  
Email: [drosen@keeganwerlin.com](mailto:drosen@keeganwerlin.com)

Dated: November 8, 2019

COMMONWEALTH OF MASSACHUSETTS

ENERGY FACILITIES SITING BOARD  
DEPARTMENT OF PUBLIC UTILITIES

\_\_\_\_\_)  
Petition of NSTAR Electric Company d/b/a )  
Eversource Energy Pursuant to G.L. c. 164, § 69J )  
for Approval to Construct and Operate a New ) EFSB 19-06  
115-kV Electric Transmission Line Between the )  
Bourne Switching Station and West Barnstable )  
Substation )  
\_\_\_\_\_)

\_\_\_\_\_)  
Petition of NSTAR Electric Company d/b/a )  
Eversource Energy Pursuant to G.L. c. 164, § 72 )  
for Approval to Construct and Operate a New ) D.P.U. 19-142  
115-kV Electric Transmission Line Through the )  
Towns of Bourne, Sandwich, and Barnstable )  
\_\_\_\_\_)

\_\_\_\_\_)  
Petition of NSTAR Electric Company )  
d/b/a Eversource Energy Pursuant to )  
G.L. c. 40A, § 3 for Individual and Comprehensive ) D.P.U. 19-143  
Exemptions from the Zoning Ordinance )  
of the Town of Barnstable )  
\_\_\_\_\_)

**APPEARANCE OF COUNSEL**

I hereby appear for and on behalf of NSTAR Electric Company d/b/a Eversource Energy in the above-captioned proceedings.

Respectfully Submitted,



\_\_\_\_\_  
Michael J. Koehler, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
Phone: (617) 951-1400  
Email: [mkoehler@keeganwerlin.com](mailto:mkoehler@keeganwerlin.com)

Dated: November 8, 2019

**COMMONWEALTH OF MASSACHUSETTS**

**ENERGY FACILITIES SITING BOARD  
DEPARTMENT OF PUBLIC UTILITIES**

**NOTICE OF ADJUDICATION AND  
NOTICE OF PUBLIC COMMENT HEARING**

EFSB 19-06/D.P.U. 19-142/19-143  
NSTAR Electric Company d/b/a Eversource Energy

Notice is hereby given that, pursuant to G.L. c. 164, § 69J, G.L. c. 164, § 72 and G.L. c. 40A, § 3, NSTAR Electric Company d/b/a Eversource Energy (“Eversource”), located at 247 Station Drive, Westwood, Massachusetts 02090, has filed three related petitions with the Energy Facilities Siting Board (“Siting Board”) and the Department of Public Utilities (“Department”) in connection with the Company’s proposal to construct, operate and maintain an approximately 12.5-mile, overhead 115-kilovolt (“kV”) electric transmission line in the Towns of Bourne, Sandwich, and Barnstable (“New Line”). The New Line will be constructed along an existing Eversource right-of-way (“ROW”) between Eversource’s Bourne Switching Station and West Barnstable Substation. The New Line, together with the related station improvements, are referred to as the Mid Cape Reliability Project (the “Project”). The Project is needed to enhance the reliability of the regional electric transmission system on Cape Cod, Martha’s Vineyard and Nantucket.

**The Siting Board will conduct a public comment hearing to receive public comment on the Project at 7:00 p.m. on [date], at [location].**

At the public comment hearing, Eversource will present an overview of the Project. Public officials and members of the public will then have an opportunity to ask questions and make comments about the proposed Project. The public comment hearing will be recorded by a court reporter. The public may also file written comments with the Presiding Officer. To file comments, please see the section titled “Filing Instructions” toward the end of this Notice.

Pursuant to an Order issued by the Chair of the Department on [INSERT DATE], the Company’s three petitions relating to the Project have been consolidated for hearing before the Siting Board, with consolidated docket number EFSB 19-06/D.P.U. 19-142/19-143. Under G.L. c. 164, § 69J, the Siting Board will review the Company’s filing to determine whether the Project would provide a reliable energy supply with a minimum impact on the environment at the lowest possible cost. Under G.L. c. 164, § 72, the Siting Board will determine whether the proposed Project is necessary, serves the public convenience, and is consistent with the public interest. Under G.L. c. 40A, § 3, the Siting Board will determine whether the requested zoning exemptions in Barnstable are required for the Project and whether the present or proposed use of the land or structures is reasonably necessary for the convenience or welfare of the public.



**Figure 1: Mid Cape Reliability Project**



### **The Company's Preferred Transmission Line Route**

The Company's Preferred Route for the New Line is approximately 12.5 miles along existing, occupied Eversource ROW 342 that runs between the Bourne Switching Station and the West Barnstable Substation through the municipalities of Bourne, Sandwich and Barnstable. Following the Eversource ROW 342, the route runs easterly from Bourne Switching Station for approximately 12.5 miles to West Barnstable Substation. The first approximately 4.8 miles of ROW 342 is located on Joint Base Cape Cod ("JBCC") property in Bourne. ROW 342 varies in width from approximately 230 feet to 265 feet from its beginning at Bourne Switching Station through the JBCC property up to Route 130 (Forestdale Road). East of Route 130 to the West Barnstable Substation, ROW 342 is 185 feet to 190 feet wide. ROW 342 contains an overhead 115-kV line on its north side, and an overhead 345-kV line roughly in the center of the ROW. The Preferred Route is the shortest, most direct route between Bourne Switching Station and West Barnstable Substation.

### **The Company's Noticed Alternative Transmission Line Route**

The Company also identified a Noticed Alternative for the New Line, which would traverse overhead on ROW 342 from Bourne Switching Station for about 6.1 miles before transitioning to an underground line design at Quaker Meetinghouse Road. From Quaker Meetinghouse Road, the New Line would continue underground for 7.9 miles to West Barnstable Substation, primarily within public roads. The 6.1-mile overhead portion of the Noticed Alternative within ROW 342 is the same

as the Preferred Route. At the transition point to the underground segment at Quaker Meetinghouse Road, the underground transmission line route heads north for approximately one mile before turning east onto Service Road, then follows Service Road for approximately 6.5 miles to Oak Street. From Oak Street, the route heads north to the West Barnstable Substation. The Noticed Alternative is approximately 14 miles long and passes through the municipalities of Bourne, Sandwich and Barnstable.

### **The Company's Noticed Variation**

The Company has also identified a Noticed Variation for the Project that would involve the construction of the New Line along the same route as the Preferred Route on ROW 342, but installing 345-kV transmission line infrastructure instead of 115-kV infrastructure. The Company is asking the Siting Board for permission to construct the Noticed Variation to enable operation of the New Line at 345 kV at a point in the future, but not to operate the New Line at 345 kV at this time. To meet the current identified need for the Project and to minimize the potential siting, cost, community and environmental impacts of building an entirely distinct 345-kV line or rebuilding the proposed 115-kV line to 345-kV standards in the future, the Company is presenting the Noticed Variation to build the Project to 345-kV standards but to operate it at 115 kV. If the Noticed Variation is approved and the need for the New Line to be operated at 345 kV materializes in the future, the Company would return to the Siting Board for permission to operate the line at 345 kV at that time. The Noticed Variation is intended to provide flexibility for the future expansion of the electric system on Cape Cod to accommodate the likely need to interconnect new renewable energy generation. For purposes of construction of the Noticed Variation, the primary difference between the Project and the Noticed Variation is in the physical size of the structures (including structure heights) and a slight increase in conductor size.

### **Related Improvements to the Bourne Switching Station and West Barnstable Substation**

The New Line will connect at both Bourne Switching Station and West Barnstable Substation. The Company is currently rebuilding the Bourne Switching Station in a design that has sufficient space to accommodate the New Line.

The West Barnstable Substation is located at 661 Oak Street in Barnstable. To accommodate the New Line, Eversource proposes to expand the existing western fence line by approximately 65 feet in order to provide space for additional equipment, such as the following: (1) two 115-kV breakers; (2) four 115-kV breaker disconnects; (3) three voltage transformers for relaying; (4) three lightning arrestors; (5) one bridge tower; (6) one line terminal disconnect; (7) one bay of 115-kV bus and bus supports; and (8) associated relaying equipment in an existing control house.

## **Public Review of the Company's Petitions**

The general location, layout, dimensions, and configuration of the Preferred Route and Noticed Alternative Route for the Project are shown on maps and plans included in or as attachments to the Company's petitions. Copies of the Company's petitions and attachments are available for public inspection in hard-copy format at the following locations:

- Energy Facilities Siting Board, One South Station, 5<sup>th</sup> floor, Boston, MA 02110
- Jonathan Bourne Library, 19 Sandwich Road, Bourne, MA 02532
- Town of Bourne, Town Clerk's Office, 24 Perry Avenue, Buzzards Bay, MA 02532
- Sandwich Public Library, 142 Main Street, Sandwich, MA 02563
- Town of Sandwich, Town Clerk's Office, 145 Main Street, Sandwich, MA 02563
- Sturgis Library, 3090 Main Street, Barnstable, MA 02630
- Whelden Memorial Library, 2401 Meetinghouse Way, West Barnstable, MA 02668
- Town of Barnstable, Town Clerk's Office, 367 Main Street, Hyannis MA 02601

In addition, the Company's petitions including all attachments are electronically available via the Department of Public Utilities' website at: <http://web1.env.state.ma.us/DPU/FileRoom/dockets>. Enter "EFSB 19-06" (with no spaces) into the search box.

## **Intervention and Participation**

Persons or groups who wish to be involved in the Siting Board proceeding beyond providing comments at the public hearing or submitting written comments may seek either to intervene as a party or to participate as a limited participant. Intervention as a party allows the person or group to participate fully in the evidentiary phase of the proceeding, including the right to participate in evidentiary hearings in Boston, and to appeal a final decision. A limited participant would receive documents in the proceeding, and would have the opportunity to present written or oral argument to the Siting Board after evidentiary hearings conclude.

Any person interested in intervening as a party or participating as a limited participant in this proceeding must file a written petition with the Siting Board. A petition to intervene or a petition to participate as a limited participant must satisfy the timing and substantive requirements of 980 C.M.R. § 1.00, the Siting Board's procedural rules, which can be found on the Board's website at:

<http://www.mass.gov/eea/energy-utilities-clean-tech/energy-facilities-siting-board/>

Once on the website, click on "Relevant Regulations" and then click on the document entitled: 980 CMR 1.00.

## **Filing Instructions**

Written comments on the Company's petitions, or a petition to intervene or participate as a limited participant, must be filed in three places:

First, the petition must be filed in hard copy with: the Presiding Officer, **[INSERT PRESIDING OFFICER]**, Energy Facilities Siting Board, One South Station, Boston, Massachusetts 02110 no later than the close of business (5:00 p.m.) on **[INSERT DATE]**.

Second, the comments or petition must be filed with the Siting Board in electronic format using one of the following methods: (1) by e-mail attachment to [dpu.efiling@state.ma.us](mailto:dpu.efiling@state.ma.us) and **INSERT PRESIDING OFFICER'S EMAIL**; or (2) on a PC-compatible compact disc filed with the Presiding Officer. The text of the email or the CD label must specify: (1) the docket number of the proceeding (EFSB 19-06/D.P.U. 19-142/19-143); (2) the name of the person or entity submitting the filing; and (3) a brief description of the document. The electronic filing should also include the name, title and telephone number of a person to contact in the event of questions about the filing.

Third, the comments or petition must be sent in hard copy and electronically to counsel for the Company, David Rosenzweig, Esq., Keegan Werlin LLP, 99 High Street, Suite 2900, Boston, MA 02110, [drosen@keeganwerlin.com](mailto:drosen@keeganwerlin.com).

Any person desiring further information regarding this Notice, including information about intervention or participation in the proceeding may also contact the Presiding Officer at the address or telephone number below:

**[INSERT PRESIDING OFFICER]**  
Energy Facilities Siting Board  
One South Station  
Boston, MA 02110  
(617) 305-**[INSERT]**

**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 and Operate a New  
115-kV Electric Transmission Line Between the  
Bourne Switching Station and West Barnstable  
Substation

---

EFSB 19-06

---

Petition of NSTAR Electric Company d/b/a  
Eversource Energy Pursuant to G.L. c. 164, § 72  
for Approval to Construct and Operate a New  
115-kV Electric Transmission Line Through the  
Towns of Bourne, Sandwich, and Barnstable

---

D.P.U. 19-142

---

Petition of NSTAR Electric Company  
d/b/a Eversource Energy Pursuant to  
G.L. c. 40A, § 3 for Individual and Comprehensive  
Exemptions from the Zoning Ordinance  
of the Town of Barnstable

---

D.P.U. 19-143

**MOTION OF NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY  
TO CONSOLIDATE THE ABOVE-CAPTIONED PROCEEDINGS**

Now comes NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) seeking consolidation of the above-captioned proceedings by the Energy Facilities Siting Board (“Siting Board”) for review. In support thereof, Eversource states as follows:

1. On this date, the Company filed a petition with the Department of Public Utilities (the “Department”), pursuant to G.L. c. 164, § 72, seeking a determination that the proposed, approximately 12.5-mile, overhead 115-kV electric transmission

- line between Eversource's Bourne Switching Station and Eversource's West Barnstable Substation (the "New Line") is necessary, serves the public convenience and is consistent with the public interest (the "Section 72 Petition") (D.P.U. 19-142).
2. On this date, the Company also filed a petition with the Department, pursuant to G.L. c. 40A, § 3, seeking individual and comprehensive zoning exemptions from the *Zoning Ordinance of the Town of Barnstable* (the "Barnstable Zoning Ordinance") in connection with the Company's proposed modifications to the existing West Barnstable Substation (the "Zoning Petition") (D.P.U. 19-143).
  3. The New Line, together with the related station improvements at the Bourne Switching Station and the West Barnstable Substation, are referred to as the Mid Cape Reliability Project, or the "Project."
  4. Also on this date, the Company filed with the Siting Board a petition for approval of the Project pursuant to G.L. c. 164, § 69J (the "Section 69J Petition") (EFSB 19-06).
  5. Consistent with Department precedent, Eversource filed a motion today with Department seeking that the Section 72 Petition and the Zoning Petition be referred to the Siting Board. By this Motion to the Siting Board, the Company is requesting that the Section 72 Petition and the Zoning Petition be consolidated with the Section 69J Petition for the issuance of a consolidated order by the Siting Board. NSTAR Electric Company d/b/a Eversource Energy and New England Power Company d/b/a National Grid, EFSB 15-04, at 4 (2018); NSTAR Electric Company d/b/a Eversource Energy, EFSB 15-03, at 4 (2017); Boston Edison

Company d/b/a NSTAR Electric, EFSB 04-1/D.T.E. 04-5/D.T.E. 04-7, at 3 (2005); Cambridge Elec. Light Co., EFSB 00-3/D.T.E. 00-103, at 2 (2001).

6. Consolidation of these matters is contemplated by G.L. c. 25, § 4, which states: “In order to promote efficiency in administration... [the chairman of the Department] may refer matters related to the need for, construction of, or siting of facilities, as defined in section sixty-nine G of chapter one hundred and sixty-four, as [the chairman] deems appropriate to the [Siting Board] in accordance with section 69H of chapter one hundred and sixty-four.” Similarly, G.L. c. 164, § 69H states that the Siting Board may “accept for review and approval or rejection any application, petition, or matter related to the need for, construction of, or siting of facilities referred to the chairman of the [D]epartment pursuant to section four of chapter twenty-five.”
7. Similarly, the Department “may order proceedings involving a common question of law or fact to be consolidated for hearing on any or all of the matters in issue in such proceedings.” 220 C.M.R. § 1.09.
8. The Company’s Project meets the consistent standards of the Siting Board and Department under G.L. c. 164, §§ 69J and 72, respectively, because these facilities are: (a) necessary to ensure a reliable energy supply with a minimum impact on the environment at the lowest possible cost; and (b) needed and will serve the public interest. In addition, the Project satisfies the requirements for zoning exemptions pursuant to G.L. c. 40, § 3 because it is “reasonably necessary for the convenience or welfare of the public.”

9. All three petitions involve common questions of law and fact, and consolidation of the proceedings would further the interests of administrative efficiency.

**WHEREFORE,** Eversource respectfully requests that the Siting Board consolidate the Section 72 Petition and the Zoning Petition with the Section 69J Petition.

Respectfully Submitted,

**NSTAR ELECTRIC COMPANY d/b/a  
EVERSOURCE ENERGY**

By its attorneys,



---

David S. Rosenzweig, Esq.

Michael J. Koehler, Esq.

Keegan Werlin LLP

99 High Street, Suite 2900

Boston, MA 02110

Phone: (617) 951-1400

[drosen@keeganwerlin.com](mailto:drosen@keeganwerlin.com)

[mkoehler@keeganwerlin.com](mailto:mkoehler@keeganwerlin.com)

Dated: November 8, 2019



**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 and Operate a New      | ) | EFSB 19-06 |
| 115-kV Electric Transmission Line Between the    | ) |            |
| Bourne Switching Station and West Barnstable     | ) |            |
| Substation                                       | ) |            |

---

**MOTION OF NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY FOR  
PROTECTIVE TREATMENT OF CRITICAL ENERGY INFRASTRUCTURE  
INFORMATION**

**I. INTRODUCTION**

Now comes NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) and hereby requests, pursuant to G.L. c. 25, § 5D and 220 C.M.R. § 1.04(5)(e), that the Energy Facilities Siting Board (the “Siting Board”) and the Department of Public Utilities (“Department”), as appropriate, recognize and confirm the application of the exemption from public disclosure for certain critical energy infrastructure information (“CEII”) included within appendices to an analysis prepared on behalf of the Company and entitled *Analysis to Support Petitions Before the Energy Facilities Siting Board – Mid Cape Reliability Project* (the “Analysis”). On this date, the Company has submitted a request, pursuant to the provisions of G.L. c. 164, § 69J, seeking the Siting Board’s approval of the Company’s petition to construct and operate a new approximately 12.5-mile, overhead 115-kilovolt (“kV”) electric transmission line on an existing right-of-way (“ROW”) between Eversource’s Bourne Switching Station and West Barnstable Substation, all as more fully described therein and referred to as the Mid Cape Reliability Project, or the “Project.” The Analysis is provided as Attachment A to the

Company's Section 69J Petition. By this Motion, the Company requests that the Siting Board protect the following documents from public disclosure:

- Appendix 2-1 of the Analysis, which is a document entitled "SEMA-RI Transmission Needs Assessment," dated May 2016; and
- Appendix 3-1 of the Analysis, which is a document entitled "SEMA-RI Transmission Solutions Study," dated February 2017.

These documents are referred to herein as the "Confidential CEII." The Confidential CEII contained in Appendices 2-1 and 3-1 includes highly sensitive information about the Southeastern Massachusetts and Rhode Island ("SEMA/RI") Area transmission system, the public disclosure of which may represent a threat to safety and service reliability to the extent that the recipient of the documents can determine potential vulnerabilities on the Eversource and SEMA/RI Area transmission systems. The redacted information qualifies as CEII under the Federal Energy Regulatory Commission's ("FERC") definition of CEII as set forth in 18 C.F.R. § 388.113(c)(1). The Company treats this information as highly confidential. Such information requires confidential, protected treatment in the interest of public safety.

A proposed Nondisclosure Agreement for CEII is provided in Attachment A to this Motion. The Company would require the execution of this Nondisclosure Agreement for CEII prior to providing any party with Confidential CEII as defined herein. The Confidential CEII is being provided under seal and subject to this Motion.

## **II. STANDARD OF REVIEW**

FERC's regulations, 18 C.F.R. § 388.113(c)(1), define CEII as follows:

Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;

- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. § 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

Consistent with the FERC rules, the Massachusetts Public Records Law is set forth at G.L. c. 66, § 10 and provides the parameters for public access to documents in the possession of state and local government agencies. G.L. c. 66, § 10. G.L. c. 4, § 7 sets forth definitions of statutory terms used in the General Laws, and clause 26 of that section contains the definition of the term “public records.” The Massachusetts General Court has provided specific protection for certain kinds of utility infrastructure information by excluding such documents from the definition of a “public record.” Specifically, “public records” are defined by statute as:

all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, unless such materials or data fall within the following exemptions in that they are: ....

G.L. c. 4, § 7, clause 26 (emphasis added). Among the various exceptions to a “public record” are:

(n) records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.

G.L. c. 4, § 7, clause 26(n) (emphasis added). See 980 C.M.R. § 4.03(2) (“[r]ecords shall not be made available to the public if they are within any of the enumerated exemptions in the 26th

clause of M.G.L. c. 4, § 7”). The Siting Board and the Department have both historically treated the Confidential CEII Information as information to be protected from public disclosure. See NSTAR Electric Company d/b/a Eversource Energy, EFSB 16-02/D.P.U. 16-77, Presiding Officer Ruling at 3 (January 25, 2017); NSTAR Electric Company d/b/a Eversource Energy and New England Power Company d/b/a National Grid, EFSB 15-04/D.P.U. 15-140/15-141, Presiding Officer Ruling at 4 (January 27, 2016) (treating the information as provided in the Confidential CEII as CEII and protecting such information from public disclosure); NSTAR Electric Company d/b/a Eversource Energy, EFSB 15-03/D.P.U. 15-64/15-65, Presiding Officer Ruling at 3 (May 21, 2015) (same); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-85, Presiding Officer Ruling (September 30, 2015) (same); NSTAR Electric Company, EFSB 10-2/D.P.U. 10-131/10-132, Presiding Officer Ruling at 3 (March 1, 2011) (treating load flow and schematic diagrams, transmission studies and updates, and presentations to PAC comparing project alternatives as CEII and protecting such information from public disclosure).

### **III. ARGUMENT**

The Company seeks protection from public disclosure the Confidential CEII described above. The Confidential CEII contained in Appendices 2-1 and 3-1 of the Analysis is exempt from the definition of a “public record” and, therefore, should be protected from public disclosure because this information provides specific details concerning critical energy infrastructure of the Company. The Company does not disclose this information to the public in the normal course of conducting business and takes steps to protect this information from unauthorized or accidental disclosure. Public disclosure of this information would be contrary to the public interest and represents an undue risk to public safety in that this information could be

used by terrorists to plan and carry out a targeted attack on specific utility infrastructure serving the Company's most critical customers.

The Confidential CEII meets FERC's definition of CEII set forth at 18 C.F.R. § 388.113(c)(1) and contains highly sensitive information, the public disclosure of which may present a threat to public safety and service reliability. Specifically, this information: (1) depicts detailed engineering information about the design of bulk electric facilities that could be useful to a person planning an attack on critical infrastructure; and (2) provides power flow cause-and-effect information that would be useful in identifying critical energy infrastructure targets. Accordingly, in view of the statutory determination under G.L. c. 4, § 7, clause 26(n), that such important energy infrastructure information is not to be publicly disclosed, the Siting Board should determine that the Confidential CEII is exempt from public disclosure because it is not a "public record."

In certain instances, the Siting Board has granted motions for protective treatment on the condition that protective treatment will lapse after a period of time. In such cases, the protected information is often of a financial nature or involves competitive bids. The competitive value of that type of information (and the harm caused by disclosure) generally erodes over time, and a reasonable sunset provision can be appropriate. However, the need for protection of Confidential CEII from public disclosure should not lapse because the information about utility infrastructure will not change for decades. There is no basis for assuming that the threat to public safety that may result from disclosure of Confidential CEII will abate after a set period of time. Furthermore, where such critical infrastructure information clearly falls within the exemption from the definition of a public record set forth in G.L. c. 4, § 7, clause 26(n), there is no legal basis for the application of a "sunset" provision, for the reason that if such information

is not a public record, there can be no requirement that it be made public. Accordingly, the Company respectfully requests that the Siting Board take such actions as may be necessary or appropriate to accord permanent protection to the Confidential CEII. See NSTAR Electric Company d/b/a Eversource Energy, EFSB 16-02/D.P.U. 16-77, Presiding Officer Ruling at 3 (January 25, 2017); NSTAR Electric Company d/b/a Eversource Energy and New England Power Company d/b/a National Grid, EFSB 15-04/D.P.U. 15-140/15-141, Presiding Officer Ruling at 4 (January 27, 2016); NSTAR Electric Company d/b/a Eversource Energy, EFSB 15-03/D.P.U. 15-64/15-65, Presiding Officer Ruling at 3 (May 21, 2015); New England Power Company d/b/a National Grid, EFSB 13-2/D.P.U. 13-151/13-152 (Sept. 30, 2013); NSTAR Electric Company, D.P.U. 13-64, Hearing Officer Ruling, at 3 (July 8, 2013); New England Power Company d/b/a National Grid, EFSB 12-1/D.P.U. 12-46/12-47, Hearing Officer Ruling on Motion for Confidential Treatment, at 3 (June 27, 2012); NSTAR Electric Company, D.P.U. 07-61, Hearing Officer Ruling on NSTAR Electric Motion for Confidential Treatment, at 3 (February 26, 2008).

#### IV. CONCLUSION

For all the foregoing reasons, Eversource requests that the Siting Board (or, as appropriate, the Department) rule that good cause exists to protect from disclosure the Confidential CEII described herein indefinitely because it meets all applicable standards and definitions for protection.

Respectfully Submitted,

**NSTAR ELECTRIC COMPANY d/b/a  
EVERSOURCE ENERGY**

By its attorneys,



---

David S. Rosenzweig, Esq.  
Michael J. Koehler, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
Phone: (617) 951-1400  
[drosen@keeganwerlin.com](mailto:drosen@keeganwerlin.com)  
[mkoehler@keeganwerlin.com](mailto:mkoehler@keeganwerlin.com)

Dated: November 8, 2019

**CEII NON-DISCLOSURE AGREEMENT**

EFSB 19-06/D.P.U. 19-142/19-143

This NON-DISCLOSURE AGREEMENT (the “Agreement”) is made by the undersigned \_\_\_\_\_ of \_\_\_\_\_ (“Recipient”) with a principal place of business at \_\_\_\_\_, in favor of NSTAR Electric Company d/b/a Eversource Energy with its primary address located at 800 Boylston Street, Boston, MA 02199 (the “Company” or the “Discloser”).

WHEREAS, the Recipient has requested that the Company disclose to the Recipient certain information, all or a portion of which may be classified by the Company as Critical Energy Infrastructure Information; and

WHEREAS, the Federal Energy Regulatory Commission has defined Critical Energy Infrastructure Information (“CEII”) as “specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. § 552 (2000); and (4) does not simply give the general location of the critical infrastructure,” (see 18 C.F.R. § 388.113 (c) (1));

WHEREAS, the Energy Facilities Siting Board (the “Siting Board”) has recognized that CEII must be protected from public disclosure pursuant to state law (see G.L. c. 66, § 10 and G.L. c. 4, § 7) and Department of Public Utilities regulations (see 220 C.M.R. § 1.04(5)(e)) and has ruled that parties to this proceeding may have access to CEII only through a Non-Disclosure Agreement; and

WHEREAS, the Company must comply with federal and state rules and regulations relative to CEII generally and the Company’s CEII protection policies in particular.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto wish to enter into this Agreement to protect and safeguard the confidentiality of that information and agree as follows:

**Section I: Critical Energy Infrastructure Information**

1. Definition of CEII. For purposes of this Agreement, “Critical Energy Infrastructure Information” or “CEII” shall mean: (i) all information designated as such by the Company, consistent with all applicable definitions and standards, whether furnished before or after the date hereof, whether oral, written or recorded/electronic, and regardless of the manner in which it is furnished; and (ii) all reports, summaries, compilations, analyses, notes or other information which contain such information.

2. Labeling of CEII: All CEII and documents furnished subject to the terms of this Agreement shall be referred to and labeled as “CONFIDENTIAL CEII.” Confidential CEII shall not include any information or document contained in the public files of the Siting Board, or any other federal or state agency.



3. Use and Protection of CEII.

(a) All CEII shall be maintained by Recipient in a secure place. Recipient shall receive all CEII in strict confidence, shall exercise reasonable care to maintain the confidentiality and secrecy of the CEII, and shall not divulge CEII to any third party without the consent of the Company. Access to materials shall be limited to other individuals who have executed this Non-Disclosure Agreement. Recipients may make notes of CEII, which shall be treated as CEII if they contain CEII.

(b) Although a Recipient of CEII may use CEII as foundation for advice provided to his or her employer, he/she may only discuss CEII with or disclose CEII to other individuals who have executed this Non-Disclosure Agreement. A Recipient may check with the Company to determine whether another individual is a Recipient who has executed this Non-Disclosure Agreement. If other employees, colleagues or co-workers require receipt of CEII, those individuals must also sign a Non-Disclosure Agreement.

(c) A Recipient will not knowingly use CEII directly or indirectly for any illegal or non-legitimate purpose.

(d) Recipient shall, and shall cause its representatives to, strictly comply with this Agreement and with any and all laws, rules and regulations (including without limitation, FERC rules, regulations, orders, and policies) applicable to any CEII of Eversource or that relates to any of their affiliates' facilities. This Section shall survive any termination, expiration or cancellation of this Agreement. The Recipient shall, and shall cause its representatives to, continue to comply with this Section with respect to the receipt of or access to any CEII by the Recipient notwithstanding termination, expiration or cancellation of the Agreement.

(e) In the event that the Recipient is required to disclose CEII by subpoena, law or other directive of a court, administrative agency or arbitration panel, the Recipient hereby agrees to provide the Company with prompt notice of such request or requirement in order to enable the Company to (i) seek an appropriate protective order or other remedy, (ii) consult with the Recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (iii) waive compliance, in whole or in part, with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, or the Company waives compliance with the provisions hereof, the Recipient hereby agrees to furnish only that portion of the CEII which the Recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded such CEII.

(f) The Recipient shall be responsible for any breach of the terms of the Agreement by the Recipient or any of its representatives.

4. Return of CEII. In the event that the Company, in its sole discretion, so requests, the Recipient will promptly deliver to the Company all CEII, including all copies, reproductions, summaries, compilations, analyses or extracts thereof.

4. Change in Status. If there is a change in status of the Recipient to his/her employer he/she must inform the Company immediately in writing at the address given above

(Attention: Mary E. Grover at Eversource Energy), and promptly return the CEII to the Company or destroy the CEII. The Company may require the return or destruction of the CEII.

5. CEII “on Loan”. CEII provided pursuant to this Agreement is deemed to be on loan and must be returned to the Company upon request immediately after termination of this Proceeding, including any appellate litigation. In addition, unless otherwise agreed by the parties, Recipient shall destroy any notes, memoranda and other documents and information, including the erasure of electronic information, derived from CEII, upon request immediately after termination of the Proceeding, except in the case of an appeal, where documents containing CEII shall be destroyed after the final resolution of such appeal. Counsel for the Recipient shall certify in writing that such destruction has been accomplished. If the Recipient is an employee of a federal or State agency, he/she must note that the information is not the property of the agency and is not subject to Freedom of Information/Public Records acts, the Massachusetts Public Records law, or similar statutes. In addition, if the Recipient is an employee of the Commonwealth of Massachusetts, he/she must note that the CEII information qualifies under federal law for restricted and limited use/distribution, and may only be disclosed to specifically designated persons, both with prior approval by the Company.

6. No Warranty. The CEII is provided “as is” with all faults. In no event shall the Company be liable for the accuracy or completeness of the CEII. The Company shall not have liability to the Recipient, or any other person or entity, for the Recipient’s use of any CEII disclosed pursuant to this Agreement.

7. Equitable Relief; Audit. The provisions of this Agreement are necessary for the protection of the business and goodwill of the parties and are considered by the parties to be reasonable for such purpose. Recipient agrees that any breach of this Agreement may cause the Disclosers substantial and irreparable damages and, therefore, in the event of any such breach or threatened breach, in addition to other remedies which may be available, the Disclosers shall have the right to specific performance and other injunctive and equitable relief, it being acknowledged that legal remedies are inadequate. The Company may audit the Recipient’s compliance with this Agreement.

8. Survival. The Recipient’s obligations and duties under this Agreement shall survive any expiration or termination unless the Company rescinds the CEII designation.

9. No Waiver. The Recipient understands and agrees that no failure or delay by the Company in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflicts of laws principles.

11. Assignment Prohibited. The Recipient may not assign rights, obligations or duties under this Agreement without prior express written consent of the Company.

12. Entire Agreement. This Agreement contains the entire agreement between the parties concerning the protection of CEII, and no modification of this Agreement or waiver of the terms and conditions hereof shall be binding upon the parties, unless approved in writing by each of them.

13. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the Recipient has executed this Non-Disclosure Agreement as of the date set forth below.

**Recipient: (if you are a consultant, please provide the name and contact information of an individual at the organization that retained you so your role may be verified):**

Signature: \_\_\_\_\_

Name (please print): \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Organization on whose behalf CEII is requested: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Reason for CEII Request: [Docket #/Project Name]