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VIA E-FILING AND HAND DELIVERY

March 16, 2018

Stephen H. August  
Presiding Officer  
Energy Facilities Siting Board  
One South Station  
Boston, MA 02110

Re: **NSTAR Electric Company d/b/a Eversource Energy**  
**EFSB 17-02 / D.P.U. 17-82 / 17-83**

Dear Mr. August:

On behalf of Protect Sudbury, Inc., please find enclosed for filing one original and five copies of its Reply Brief.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Kanoff". The signature is written in a cursive style.

Richard A. Kanoff

Enclosures

cc: Service List, EFSB 17-02 / D.P.U. 17-82 / 17-83



As described in greater detail below, the Company's brief continues the false narrative that the Project is the best choice among available alternatives. The record in this case is devoid of the requisite substantial evidence that the Project would have "a minimum impact on the environment, would have fewer adverse impacts than available siting alternatives, and that it is consistent with the Commonwealth's policies." M.G.L. c. 164, § 69J. Accordingly, for the reason set forth in herein and in its initial brief ("PS Init. Brief"), Protect Sudbury submits that the Company has not satisfied its statutory burden under M.G.L. c. 164, § 69J and the Siting Board should deny Eversource's 69J Petition requesting approval of the Project.<sup>2</sup>

## **II. ARGUMENT**

### **A. Eversource's Proposed Project Does Not Comply With "All Applicable Standards Of The Siting Board" And Should Therefore Be Denied**

Eversource flatly, but incorrectly, asserts that its 69J Petition should be approved because it complies with "all applicable standards of the Siting Board." Ev. Init. Br. at 56-57.

Notwithstanding the Company's wishful thinking, the glaring deficiencies in the Company's filing and brief, as set forth below and in Protect Sudbury's initial brief, are significant, compelling and unprecedented, and the Siting Board should not approve this Project.

#### **1. The Project Has Not Been Reviewed and Approved by ISO-NE**

The Company continues to claim that the "Project" (the underground line on the MBTA ROW) has been subject to ISO-NE review and was selected as one of the "preferred" solutions. Ev. Init. Br. at 7, 41-50. It deceptively suggests that the "ISO-NE led Working Group" evaluated the Project and the NEP Alternative when, in fact, ISO-NE assessed an above ground option on

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<sup>2</sup> In its brief, the Company ignores the Hearing Officer's directive that the parties address each other arguments in the initial brief so that "the issues in dispute will be more fully "joined"". Briefing Schedule, dated January 29, 2018. Instead, for the most part, the Company restates its filing. Protect Sudbury has addressed the Company's specific references to Protect Sudbury's arguments as set forth in the Company's brief at fn. 54 and fn. 61 and reserves its rights to further inform the Siting Board as may be appropriate following review of the Company's Reply Brief.

the MBTA ROW at less than half the cost of the Project (e.g., the Noticed Variation). See Ev. Init. Br. at 51-52; PS Init. Br. at 10-26.

It is uncontroverted that ISO-NE has not reviewed this Project. Further, Eversource knew the Project could not be built as planned well before ISO-NE completed its Solutions Study in 2015 and failed to disclose this material information to the Planning Advisory Committee (“PAC”) or ISO-NE. Eversource blithely allowed ISO-NE to continue to review an above ground transmission line on the MBTA ROW at an assumed cost that it knew would never be constructed. In doing so, it subverted a well-established and defined ISO-NE stakeholder review process. Consequently, the Company is now attempting to cover-up its misuse of the process in its filing before the Siting Board. See PS Init. Br. at 10-16.

Eversource’s deception is well documented. As early as April, 2015, well before the final Solutions Study was presented to the PAC on August 12, 2015 (Exh. EV-2, App. 3-3), the Eversource “project team” communicated with National Grid that it would “not be able to get easement rights to build an OH 115 Kv line along a former MBTA corridor on which the DCR has an easement for a bike trail.” Exh. RR-PS-9(1); see also PS Init. Br. at 19 (DCR noted its opposition to an overhead line in meeting minutes dated June 1, 2015).<sup>3</sup> Although Eversource recognizes the importance of the ISO-NE process<sup>4</sup>, it failed to inform the ISO-NE at key periods during ISO’s review process of its inability to obtain approval of the ISO’s preferred overhead MBTA ROW route. Id. In withholding important information, the Company completely undermined the ISO-NE review and stakeholder process. See PS Init. Br. at 10-26.

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<sup>4</sup> In its brief, Eversource noted that the Siting Board has previously accorded considerable weight to the ISO-NE Updated Needs Assessment for the Greater Boston area and its findings. Ev. Init. Br. at 42 (citing Eversource Mystic-East Eagle at 26). The EFSB should reject a transmission proposal that has not been included in any Needs Assessment or Solutions Study and evaluated by ISO-NE. See PS Init. Br. at 10-26.

By its actions/inaction, the Company allowed the Project to proceed to this Board without any necessary ISO-NE review of cost and alternatives as required for regional transmission projects. However, the Project is not a routine route variation that the Siting Board would expect to evaluate in this type of proceeding. For example, the Project alternative is not proposed as an adjustment in the length of a transmission line previously approved by ISO-NE or as a revisions in the configuration of a line (e.g., under street vs. on an existing utility corridor). What is unique here (and unprecedented) is that the transmission line, the Noticed Variation, as approved by ISO-NE, cannot be built, and the Company has unilaterally substituted another line for what the ISO-NE had previously reviewed and approved. In doing so, the Company has ignored and avoided the long-standing process that requires ISO-NE to comparatively evaluate transmission line solutions and placed unwarranted responsibility on the Siting Board to make a judgment on transmission line choices that would otherwise have been made by ISO-NE. The EFSB should reject the Company's attempt to avoid ISO-NE stakeholder review and its attempt to compel the Siting Board to undertake what are more appropriately ISO-NE responsibilities.

The Company's failing in this respect is unprecedented. Accordingly, for these reasons, and as set forth in Protect Sudbury's initial brief, the EFSB should reject the Petition.<sup>5</sup>

2. The Host Communities Vigorously Object to the Project

The Company posits, remarkably, that the Project was selected following numerous meetings, "extensive community outreach" and a determination that there "were clear advantages of constructing the Project underground along the MBTA corridor." Ev. Init. Br. at 8.

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<sup>5</sup> The Company's unilateral contract with NEP does not excuse the Company's failure to subject the Project to ISO-NE's review and to present the Project to the EFSB following that review. The EFSB should not allow the Company to ignore the mandated ISO-NE review process that it concedes merits "considerable weight."

The Company's suggestion of municipal and community support for its Project demonstrates that the Company intentionally ignored the consistent feedback from participants at numerous meetings with community stakeholders. In reality, there is no community support for this Project and any suggestion to the contrary is without merit. See PS Init. Br. at 49. This lack of community support is amply documented in the record in the filings by the Towns of Sudbury and Hudson and well established in the public hearings that allowed for stakeholder participation.<sup>6</sup>

The Company has totally disregarded the community in its decision-making process, notwithstanding its recognition that the stakeholder input and feedback are important components of the process. Ev. Init. Br. at 32, 78. In the same way it ignored the ISO-NE process which required a review of the Project, Eversource overlooked the collective, vehement opposition of the host towns, communities and stakeholders to the Project. In short, the Company marginalized the Towns, the community as a whole and concerned stakeholders. This failure to appropriately value community and stakeholder support undermines the Company's conclusions that "there were clear advantages of constructing the Project underground along the MBTA corridor." Ev. Init. Br. at 8.

In order to justify its decision to ignore substantive and valid input from stakeholders, Eversource seeks to discredit stakeholder participation. It ignores the extensive discussions held between Protect Sudbury, Sudbury and the Company in opposition to the Project and the overwhelming information presented by the Towns and Protect Sudbury before and during this

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<sup>6</sup> The record documents the extensive opposition of the Town of Sudbury to the Project by town boards, the Board of Selectman, abutters and stakeholders. "Given the extraordinary clearing and loss of habitat along the MBTA ROW associated with the Project, citizens and stakeholders commenting in the Proceedings and in related Massachusetts Environmental Policy Act proceedings have made clear they would prefer the MBTA ROW be left in its natural state. See e.g., Attachment EFSB-G-1(3)." Sudbury Init. Br. at 98.

case regarding the harm that would result from construction and operation of the Project on the MBTA route. Instead, the Company asserts that Protect Sudbury's discussion relating to the Company's routing analysis is "completely unbalanced" and reflective "...solely on Protect Sudbury's point of view and interest [ ]." See Ev. Init. Br. at 86, fn. 61. This mischaracterization reveals that Eversource will ignore meaningful participation by stakeholders if the message or the messenger does not echo its point of view.

In a thinly veiled attempt to rationalize its incognizance, Eversource cites a recent Siting Board decision in support of its notion that community input is less important than reliance on an "objective, data-driven route selection process." See Ev. Init. Br. at 86, fn. 61, citing, 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, at 67 (2018) ("Woburn-Wakefield").<sup>7</sup> The Company's attempt to seek support (for ignoring communities and stakeholders) in EFSB's determination in the Woburn-Wakefield proceeding is misleading. A fair reading of the case, including conveniently omitted language, suggests that the Siting Board considered community input (as Eversource should) but was not persuaded by community and stakeholder support of an alternative route that would "shift significant lengths of the Project line to neighboring or more distant communities." Woburn-Wakefield at 66-67. Protect Sudbury, and the Town of Sudbury for that matter, are not advocating for routes that would displace the burden of the Project to other communities. More to the point in that case, the EFSB has recognized that stakeholders who express their preference between two routes located within their community is important:

The Siting Board finds that the Primary Route and the Noticed Alternative Route are comparable with respect to environmental impacts, cost, and reliability. But the Noticed Alternative Route faces significant constructability issues, especially with respect to the crossing of I-93. *Furthermore, the Companies assert the*

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<sup>7</sup> The Company's argument here just confirms that stakeholders are not meaningfully considered in its analysis.

*superiority of the Primary Route. In contrast, the Noticed Alternative Route has no known public support and no party asserts that the Noticed Alternative Route is superior.* For these reasons the Siting Board concludes that the Primary Route, with and without the New Salem Street Variation, is superior to the Noticed Alternative Route with respect to providing a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost.

Woburn-Wakefield at 135-136 (emphasis added).

The Siting Board’s decision in Woburn-Wakefield is thus clearly inapposite to the Company’s position which seeks to minimize the role of communities and stakeholders. In a case where the primary and noticed alternative routes were deemed comparable with respect to environmental impacts, cost, and reliability—the Siting Board evaluated constructability issues and factored in public support (or the lack thereof). Accordingly, in this case, the Siting Board should consider, notwithstanding the Company failure, the important views of the communities and stakeholders in opposition to the Project.

3. The Rail Trail Does Not Provide Project Benefits

The Company’s brief, echoing its filing, flaunts the benefits of assisting in the development of a rail trail as part of the construction of the Project, and proffers that the rail trail “will extend public open space, promote regional connectivity and positive economic benefits, encourage exercise, and inspire environmental and historic appreciation by providing pedestrian and cycling rail trail users with access to the communities’ many amenities, including recreational facilities, eateries, shops, and other businesses.” Ev. Init. Br. at 9, 90-91. On the contrary, a rail trail,<sup>8</sup> combined with the Project, would destroy more of the natural environment than would

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<sup>8</sup> The Company’s proposal ignores Sudbury’s overwhelming preference to use “public open space” in its current state to “inspire environmental and historic appreciation”. Sudbury Init. Br. at 98, citing Attachment EFSB-G-1(3). The Siting Board should reject the Company’s efforts to thwart the Sudbury’s desire to maintain open space for the benefit of the community, given the feasible alternatives available to serve any alleged “need.”



otherwise result from construction of the rail trail by itself. PS Init. Br. at 49-50; Sudbury Init. Br. at 99. Significantly as well, the unilateral development of a rail trail as proposed would undermine the Town of Sudbury's ability to decide, on behalf the community it serves, how this fragile and undeveloped natural resource (the MBTA ROW) should be protected and utilized by the community. Sudbury Init. Br. at 97-99; PS Init. Br. at 49-50.

**B. The Project On Balance is Not Superior to the Noticed Alternative In Terms of Cost and Environmental Impact**

The Company promotes the Project as the “option that best balances minimization of environmental impacts (including developed and natural environment impacts and constructability constraints), reliability, and cost.” Ev. Init. Br. at 69 (citing Exh. EV-2, at 4-2). In reaching this conclusion, the Company is forced to depict the Preferred Route as a perfectly situated option that is “less expensive than the Noticed Alternative”, while also environmentally superior to the Noticed Variation (because of the “higher impacts to the *natural* environment more than offset its cost advantage”) and the Noticed Alternative (because the Project will result in “fewer impacts to the *developed* environment”). Ev. Init. Br. at 92 (emphasis added).

This selective emphasis demonstrates the difficulty in establishing that, on balance, the Company's Preferred Route is superior to the Noticed Variation and Alternative in terms of cost and environmental impact. The Company ignores the obvious deficiencies in its cost analysis and fails to address the compelling record evidence of environmental harm from the Project as compared to the alternatives. See PS Init. Br. at 28-34; Sudbury Init. Br. at 51-55.

1. The Company's Cost Analysis Is Flawed

Unlike virtually every transmission line project previously considered by the Siting Board, the Preferred Route here is not least cost.<sup>9</sup> However, by virtue of submitting a Preferred Route that is more costly than the Noticed Variation, the Company cannot plausibly utilize cost as a dispositive factor to then reject the Noticed Alternative. As assumed by the Company, neither the Project nor the Noticed Alternative are least cost and therefore neither warrant the legal deference that the Siting Board would generally apply to cost in these cases. Further, overall, the delta between the Preferred Route and the Noticed Alternative (\$18.4 million) is significantly less than the delta between the Preferred Route and the Noticed Variation (\$28.3 million) and thus any argument that Noticed Alternative should be rejected on the basis of cost alone is inconsistent with the Company's approach.<sup>10</sup>

Moreover, the record in this case clearly establishes that the superficial cost estimates relied upon by the Company cannot reasonably provide any basis for reasonable comparison of the Project with the NEP Alternative or the Noticed Alternative or for any determination by the Siting Board that the Project is superior on the basis of cost to any alternative approach. See PS Init. Br. at 26-37. The Company admits in its very cursory discussion of costs in its brief that its conceptual estimates do not include key elements relating to engineering, commodity costs or labor costs conceding key deficiencies in accuracy in its estimates. See Ev. Init. Br. at 91-92; PS

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<sup>9</sup> As filed, the Noticed Variation is least cost. The Company's brief promotes the Preferred Route as comparatively least cost to the NEP Alternative and the Noticed Alternative on the basis of conceptual estimates (in its filing) and planning estimates (as recently filed). Ev. Init. Br. at 34. With respect to the NEP Alternative, the Company compares the estimated cost of the Project (\$96 million (-25%/+25%)) with the total estimated cost of the NEP Alternative (\$116 million (-25%/+50%)). Ev. Init. Br. at 53-54 citing Exhs. EV-2, at 3-4; RR-EFSB-17; RR-EFSB-50; RR-EFSB-50(1). With respect to the Noticed Alternative, the Company compares the Project cost at approximately \$96 million with the Notice Alternative at 114.2 million. Ev. Init. Br. at 91-93 (citing Exh. RR-EFSB-50(1)).

<sup>10</sup> The Company conveniently ignores this fact in its brief, choosing initially to focus on conceptual cost estimate percentages above the lowest cost option. Ev. Init. Br. at 83; Exh. EV-2 at 4-34, Table 4-10. In doing so, the Company attempted to establish a cost comparison whereby the Preferred Route (110% more than the lowest cost option) is favorable to the Noticed Alternative (155% more than the lowest cost option). Id.

Init. Br. at 29. In addition, the Company's late filed planning estimate of Project costs does not correct the glaring inaccuracies of the Company's early stage cost estimating process and its unfounded reliance on single point estimates as a basis of comparative evaluations of options. See PS Init. Br. at 33-34; Sudbury Init. Br. 77-82.

The Company's cost analysis should thus be rejected. The Company breaks precedent in not presenting a least cost project and it cannot and does not overcome the strong record evidence demonstrating that its cost estimates are unreliable and deficient and that there are clearly superior alternative options. See PS Init. Br. at 26-31; Sudbury Init. Br. at 31.

2. Environmental Impacts of the Project Are Unprecedented

Notwithstanding the Company's euphemism that the Preferred Route makes use of a "previously developed MBTA ROW", this Project is unprecedented with respect to its proposed scope of work on a non-utility corridor. Ev. Init. Br. at 92; PS Init. Br. at 7-10. The Company minimizes significant environmental impacts by placing undue emphasis on short-term impacts (construction impacts related to residences, business and traffic), and failing to take into account long term impacts associated with Project route. See PS Init. Br. at 37-46. Only the Company could conclude, based upon its unreasonable reliance on a flawed analysis and methodology, that a new transmission line on the MBTA ROW would have less impact on the environment than an under street route or a route on an existing utility right-of-way. Ev. Init. Br. at 92. The bottom line is that there has never been a transmission line project proposed or approved on an undeveloped route such as here where other alternatives (under street or utility ROW) are available. PS Init. Br. at 47-48. With the exception of this utility in this case, no EFSB Petition has been submitted for approval on an undeveloped route on similar facts.

The Company asserts in its brief that the EFSB should rely on Company's flawed route selection process and ignore its long-standing precedents as set forth above. Ev. Br. at 92. In making its argument, the Company continues to over value short term impacts, undervalue long term impacts, double count cost, overemphasize constructability, overlook contamination and risk, and ignore common sense. See PS Init. Br. at 37-48. The Company takes umbrage with Protect Sudbury's experts who, after reasonable adjustments to the routing analysis, determined that the Noticed Alternative should have scored as the best route. See Ev. Init. Br. at 86, fn. 1. All of these points are comprehensively addressed in Protect Sudbury's initial brief and need not be repeated here. See PS Init. Br. at 37-48.

Indeed, the Company's brief underscores the significant damage that would result from construction and operation of the Project as compared to alternatives. The extent of the damage is reflected in the extensive remediation and mitigation measures required to address the environmental harm caused by the Project, from, among other things, wide-spread clearing and cutting of trees and forested areas, grading, removal of extensive vegetation, and major excavations. Ev. Init. Br. at 93-125. Eversource cannot hide the long-lasting extensive damage from the Project to fragile wetlands, public water supplies, coldwater fisheries, wildlife habitats, rare species, shade trees, and cultural resources. See PS Init. Br. at 8, 39-45.

By comparison, the Noticed Variation and the NEP Alternative would not cause comparable permanent environmental harm, and do not require the same level of extensive mitigation. There is no environmental damage associated with an under street route; nor can the Company reasonably assert that the level of environmental impacts associated with work on an existing utility corridor are comparable to the Project. PS Init. Br. at 9-10, 46-47.

The Company also objects to the use of “impact duration” as proposed by Protect Sudbury’s experts as a factor to be incorporated in its routing analysis. Ev. Init. Br. at 76, fn. 54. Its self-serving statement that it already factored impact duration into its current analysis is belied by the record. See PS Init. Br. at 38-48; See Sudbury Init. Br. at 71. Moreover, Eversource’s consideration of impact duration obscures the fundamental point here--that its routing analysis is flawed by its unreasonable assumption that permanent impacts to the natural environment are preferable to the temporary impacts to the developed environment. See PS Init. Br. at 38-46. Id.

Eversource’s approach ignores the Siting Board’s long standing precedents favoring projects (e.g. under street and existing utility ROWs) that seek to avoid the permanent impacts created by this Project:

[In] many cases, the use of an existing [ROW] as the site of new lines is the most appropriate way to achieve the proper statutory balance [among need, environmental impacts and cost] and that the environmental impact of such use is “prima facie minimal.” Because the proposed project would be located primarily beneath existing roadbeds and within an existing ROW, the Siting Board expects that incremental permanent land use impacts would be minimal.

Commonwealth Electric Company, EFSB 96-6, at 37 (1997).

Eversource’s methodology also ignores well established precedents that place a higher value on avoiding permanent environmental impacts than on other criteria:

“The record shows that relative to the primary route (with overhead construction), the alternative route underground design would provide...land resource advantages based on avoidance of a separate new permanent overland ROW. The alternative route underground design also would provide some benefits over the primary route with respect to temporary construction impacts, including impacts on land and water/wetland resources. The alternative route underground design would likely entail greater construction and maintenance traffic impacts, however, offsetting construction period benefits to land and water/wetland resources. Overall, given its permanent impact advantages, the alternative route underground design would be preferable to the primary route with respect to environmental impacts.

Russell Biomass, LLC/Western Massachusetts Electric Company (“Russell Biomass”), EFSB 07-4/D.P.U. 07-35/07-36, at 42 (2009)

Similarly, Eversource’s claim that lower costs (assuming *arguendo* that the Project is lower cost as compared to alternatives, which Protect Sudbury does not concede) warrants a higher value, given the environmental impacts, is not supported by the applicable precedents. The Siting Board has determined that more costly projects, with less environmental impact, are preferable to alternative routes at lower costs and more impacts:

The Siting Board recognizes that added costs for underground construction, particularly within the range of the Montgomery underground alternative, could be found to be consistent with the Siting Board’s standard of review if warranted due to environmental or reliability advantages. Here, however, the record shows neither the primary route underground design nor the Montgomery underground design would provide clear net environmental advantages over use of an overhead design on the primary route.

Russell Biomass at 42-43.

In addition, the Siting Board also recognizes that a more expensive route on balance can be preferable to the alternatives because of its land use and community benefits:

In comparing the proposed facilities along the primary and the alternative routes, the Siting Board has found that the primary route would be preferable with respect to environmental impacts, but that the alternative route would be preferable with respect to cost... While more costly, installing the proposed facilities along the primary route would substantially reduce a variety of land use impacts because it would avoid areas of denser business and residential development. The communities of both Boston and Quincy have also expressed their strong support for the primary route. On balance, therefore, the Siting Board concludes that the additional expenditure of \$2.3 million is warranted to avoid the significant impacts on residential neighborhoods and businesses associated with routing the proposed facilities through the built-up areas along the alternative route.

New England Power at 71-72.

Thus, there is a clear nexus between the facts in the instant case and the Siting Board’s reasoning in Russell Biomass and New England Power. The Noticed Alternative, even assuming,

arguendo that it may be more costly than the Preferred Route, is preferable with respect to environmental impacts and has the strong support of the Sudbury community. As such, the Siting Board should find on balance that the Noticed Alternative, with a minimum impact on the environment, is preferable to the Project.

In short, the record testimony of the intervener experts in this case is clear and conclusive: the environmental damage from the Project is far greater than the Noticed Alternative or the NEP Alternative. There is no credible basis to conclude, and past EFSB cases so find, that the environmental impacts associated with construction and operation of this Project, on an undeveloped right of way, would be less than development under streets or on a previously developed utility transmission corridor. The Company's analysis to the contrary should be rejected.

### 3. The NEP Alternative is a Better Choice

Although the Company expends significant efforts to discount the NEP Alternative as a viable alternative, there is no record support for the Company's assertion that the Project is superior to the NEP Alternative. Ev. Init. Br. at 51. First, as noted, given the inherent variability of the estimates, there is no reasonable basis to conclude that the Project is superior to the NEP Alternative from a cost perspective. Ev. Init. Br. at 53-54; PS Init. Br. at 35-36. In fact, the record demonstrates that the Project and the NEP Alternative, at 116 million (-25%/+50%), are comparatively the same and/or the NEP Alternative may cost less. PS Init. Br. at 35-36. Moreover, the Company's professed reliance on "local reliability" or a "capacity" benefit is unavailing given ISO-NE's determination that the NEP Alternative meets all required regional reliability requirements and the Company's admission that the NEP Alternative would meet any identified need. See Ev. Init. Br. at 53-54; PS Init. Br. at 23. Further, Eversource's contention

that construction of a transmission line on a new ROW is somehow a unique Project benefit (e.g., diversification of supply) ignores the extensive damage from the Project on the undeveloped MBTA ROW and the ISO-NE's unequivocal determination that other alternatives offer comparable operational benefits. Finally, the Company dramatically understates the environmental impacts of the Project vs. the NEP Alternative to arrive at a wholly fictitious conclusion that the environmental impacts associated with the Project are "much less substantial and complex than what would be required for the NEP Alternative." Ev. Init. Br. at 55; PS Init. Br. at 46-48.<sup>11</sup>

The NEP Alternative is clearly the better choice. It has been vetted by ISO-NE (unlike this Project), meets reliability requirements, and creates less environmental damage--all at an equal or lower cost. PS Init. Br. at 17-18, 34-45.

### **III. CONCLUSION**

As set forth above, the Company selectively cited to the record and its filing in support of its assertion that its Petition meets the requisite standards for approval as set forth in M.G.L. c. 164, § 69J. However, a review of the record and the applicable case law demonstrates conclusively that the Company's proposed Project is simply without parallel. By and large, this is a matter of first impression for the Siting Board, as it is being requested to approve a transmission line, that: (i) is located on an undeveloped right of way where other options, e.g., an existing right of way or under streets are available; (ii) is not least cost, or, as is the case here, where the Project in fact may have a higher cost than the alternatives; (iii) has not been reviewed

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<sup>11</sup> Ultimately, not even the Company can twist the record to fully support the notion that the NEP Alternative has greater environmental impacts than the Project. See Ev. Init. Br. at 55-56 (noting the "distinct features" of each make "comparisons and judgments" difficult and on balance the Project and NEP Alternative "are comparable").



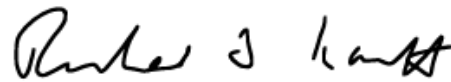
and evaluated by ISO-NE; (iv) creates significantly greater environmental damage than viable alternatives; and (v) is not supported by the host communities.

The record evidence conclusively demonstrates the unprecedented nature of the Company's proposal and its failure to sustain its burden of proof, pursuant to § 69J, to show that its proposed Project has "a minimum impact on the environment at the lowest possible cost." Accordingly, for the reasons set forth above, and in Protect Sudbury's initial brief, the EFSB should reject the Company's Petition as filed.

Respectfully submitted,

PROTECT SUDBURY, INC.

By its attorneys,



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Dated: March 16, 2018

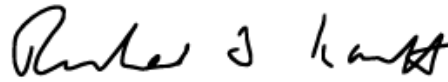
**COMMONWEALTH OF MASSACHUSETTS**  
**ENERGY FACILITIES SITING BOARD**

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

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

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I have served a copy of the foregoing document via email upon each person as designated by the Energy Facilities Siting Board for the above-captioned proceeding in accordance with the requirements of 980 C.M.R. § 1.03.



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Dated: March 16, 2018