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December 10, 2019

Joan Foster Evans, 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 Ms. Foster Evans:

Consistent with the procedures applicable to this proceeding, NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) submits its written comments on the Tentative Decision issued in the above-referenced proceeding on December 2, 2019. For the reasons described below, the Company fully supports the Tentative Decision and requests that the Energy Facilities Siting Board (the “Siting Board”) adopt it as its Final Decision on this matter, in accordance with the comments provided herein. Pursuant to G.L. c. 164, §§ 69J and 72, the Tentative Decision approves, with various conditions: (1) the Company’s proposed new, approximately 9-mile, 115-kilovolt (“kV”) underground electric transmission line between Eversource’s existing substation in Sudbury (“Sudbury Substation”) and the Hudson Light & Power Department’s (“HLPD”) Substation in Hudson (the “New Line”); and (2) related substation improvements (together with the New Line, the “Project”).<sup>1</sup>

The Tentative Decision also grants the Company, subject to certain conditions, individual and comprehensive zoning exemptions from the operation of: (1) the *Zoning Bylaw, Article IX, Town of Sudbury, Massachusetts* as amended through June 13, 2016 in connection with the Company’s proposal to modify Sudbury Substation and to construct portions of the New Line in Sudbury along the MBTA ROW; (2) the *Town of Hudson Protective Zoning By-Laws*, as amended through February 28, 2017, in connection with the Company’s proposal to construct portions of the New Line in Hudson along the MBTA ROW and public ways; and (3) the *Town of Stow, Massachusetts Zoning Bylaw*, as amended through May 2, 2016 in connection with the Company’s proposal to construct portions of the New Line in Stow along the MBTA ROW.<sup>2</sup>

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<sup>1</sup> The New Line will pass primarily through the Towns of Sudbury and Hudson and will cross short sections of the Town of Stow and the City of Marlborough. In Sudbury, Hudson, Stow and Marlborough, the New Line will be constructed underground along an inactive railroad corridor owned by the Massachusetts Bay Transportation Authority (“MBTA”) (the “MBTA ROW”). In addition, portions of the New Line also will be constructed in public ways in Hudson. To accommodate the New Line, the Company and HLPD each will undertake modifications to their respective substations.

<sup>2</sup> No zoning relief is necessary for the portion of the New Line that will be constructed in the City of Marlborough and, accordingly, no exemptions are required.

The Company appreciates the diligence and effort by the Siting Board staff that went into the preparation of the Tentative Decision and the opportunity to comment on it. The Company strongly supports the Tentative Decision's approval of the Project, which is based upon the Siting Board's thorough analysis of the issues, substantial record evidence and consistency with the Siting Board's statutory authority and long-standing precedent. The Tentative Decision provides a well-reasoned analysis of the extensive record amassed over the course of 16 days of evidentiary hearings and through over 1,800 exhibits, consisting primarily of the Company's initial petitions, as well as written testimony, responses to information requests, responses to record requests and hearing exhibits. All told, 28 Company and intervenor witnesses contributed to the development of the robust and substantial evidentiary record in this proceeding.

Based on the comprehensive evidentiary record, the Tentative Decision addresses each aspect of the Siting Board's statutory mandate with factual findings that are appropriate and well supported. For example, the Tentative Decision concludes, based on clear and substantial evidence, that the Project is needed to ensure the reliability of the regional electric transmission system serving the Marlborough Subarea, which consists of approximately 80,000 customers and over 400 megawatts of load from customers in Berlin, Framingham, Grafton, Hudson, Marlborough, Northborough, Shrewsbury, Stow, Southborough and Westborough. Tentative Decision at 2, 25-26; Exh. EV-2, at ES-1. In addition, the Tentative Decision finds that the Project is superior to available transmission and non-transmission alternatives ("NTAs") in meeting the identified need from a reliability, cost and environmental impact perspective. Tentative Decision at 49. Further, the Tentative Decision correctly concludes that the Company's route selection process was reasonable and objective, consistent with Siting Board standards and precedent and it did not overlook any clearly superior route. Tentative Decision at 76-77. The record likewise amply supports the Tentative Decision's findings that the Project along the MBTA Underground Route achieves an appropriate balance among conflicting environmental concerns as well as among environmental impacts, reliability and cost and that the Project overall is consistent with the current health, environmental protection and resource use and development policies of the Commonwealth. Tentative Decision at 180-81, 187-91.

The Company also supports the Tentative Decision's conclusion that: (1) the Siting Board's proceeding fully preserved all parties' due process rights as required by G.L. c. 30A, §§ 10, 11; and (2) the Town of Sudbury's June 13, 2019 Motion to Reopen the record and hearing to admit into evidence additional information relating to the need for the Project and potential NTAs did not meet the applicable standard of good cause. Tentative Decision at 10-13, 228-31. With respect to issues of due process, as the Siting Board properly notes in the Tentative Decision, the "hallmarks of due process are notice and an opportunity to be heard at a meaningful time and in a meaningful manner." Tentative Decision at 13, quoting Daniels v. Board of Registration in Medicine, 418 Mass. 380, 383 (1994). See also Alliance to Protect Nantucket Sound Inc. v. Energy Facilities Siting Bd., 448 Mass. 45, 52 (2006). The fact that all parties in this proceeding have had a full and fair opportunity to present their case and to participate meaningfully throughout, in accordance with Siting Board and judicial precedent, cannot seriously be contested.

Regarding the Town of Sudbury's Motion to Reopen, the Siting Board exercised its broad discretion to deny the motion based on the well-supported determination that the proffered information would not likely have a significant impact on the Siting Board's determination that the Project is needed and superior to identified alternatives. Tentative Decision at 231. The Siting Board's findings are entirely consistent with its precedent on such procedural matters, as affirmed on multiple occasions in multiple contexts by the Commonwealth's Supreme Judicial Court. See, e.g., Alliance to Protect Nantucket Sound, Inc. v. Department of Public Utilities, 461 Mass. 190, 193-194 & n.7 (2011); Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd., 448 Mass. 45, 50 & n.6 (2006); Box Pond Ass'n v. Energy Facilities Siting Bd., 435 Mass. 408, 420 (2001).

While the Company will abide by the conditions imposed in the Tentative Decision, the Company requests clarification to one condition:

- Condition D. As written, Condition D could be interpreted to preclude the Company from commencing construction in a town where it has obtained all necessary local permits and approvals if it has been denied a permit or approval in another town. While the Company does not believe that is the intent of the condition, clearer wording would be appropriate. In addition, in requiring that "each Order of Conditions from local conservation commissions" be filed, Condition D could be interpreted, if read too literally, as not recognizing that approval for work in wetland resource areas may be obtained (or need to be obtained) by other entities, such as from the Department of Environmental Protection in the form of a Superseding Order of Conditions, or from the Siting Board after an override proceeding pursuant to G.L. c. 164, §§ 69K et seq. Accordingly, the Company suggests that Condition D be revised as follows (proposed new language underlined):

The Company shall file the following documents applicable to a particular community prior to the start of construction in that community: final mitigation plans for wetland replication and compensatory flood storage; completed wildlife habitat assessments; final avoidance and mitigation plans; and each Order of Conditions from the local conservation commissions (or equivalent from DEP, the Siting Board, or any other entity empowered to authorize such work). The Company shall not be precluded from commencing construction in a particular community if it is fully permitted to proceed in that community.

Lastly, with regard to two conditions, the Company notes the following:

- Condition F. In accordance with Condition F, the Company will consult with DCR and endeavor to incorporate a provision in its MOU with DCR that would require DCR to use mechanical vegetation management along the MBTA ROW in the specified locations. The Company notes, however, that it has no authority to require that DCR agree to incorporate such a provision in the MOU or that DCR take any particular actions along the ROW once, upon the completion of construction of the applicable portion of the Mass. Central Rail Trail ("MCRT"), DCR assumes responsibility for maintenance.

- Condition N. In accordance with Condition N, the Company will honor all reasonable and feasible requests for mitigation that it receives from any property owner along the ROW whose view has materially changed due to construction of the Project. The Company notes, however, that the Project is an underground transmission line and that views of Project facilities will be extremely limited to non-existent.

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The Company thanks the Siting Board for the opportunity to submit these written comments on the Tentative Decision and looks forward to presenting oral comments at the Siting Board's December 17, 2019 meeting. The Company requests that the Siting Board adopt the Tentative Decision approving the Project, subject to the minor clarifying revision to Condition D discussed above, as its Final Decision in this proceeding.

Respectfully Submitted,

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

By its attorneys,



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cc: Service List  
Andrew Greene, Director, Energy Facilities Siting Board

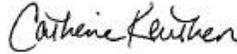
**COMMONWEALTH OF MASSACHUSETTS  
ENERGY FACILITIES SITING BOARD**

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NSTAR Electric Company )  
d/b/a Eversource Energy ) EFSB 17-02/ D.P.U. 17-82/17-83  
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**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to 980 C.M.R. 1.03(4), I have on or before this day served a true copy of the enclosed documents, electronically, upon all parties of record in this proceeding.

Dated at Boston, Massachusetts this 10th of December, 2019.



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