COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

JOINT COMMENTS OF NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY AND NEW ENGLAND POWER COMPANY, MASSACHUSETTS ELECTRIC COMPANY AND NANTUCKET ELECTRIC COMPANY, EACH D/B/A NATIONAL GRID, ON DRAFT GUIDANCE AND REGULATIONS REGARDING PRE-FILING CONSULTATION AND ENGAGEMENT TO IMPLEMENT THE 2024 CLIMATE ACT

I. INTRODUCTION

On November 21, 2024, An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers (the "2024 Climate Act") was signed into law by Governor Maura Healey. The 2024 Climate Act requires several agencies, including the Executive Office of Energy and Environmental Affairs ("EEA") and the Energy Facilities Siting Board (the "Siting Board"), to propose regulations for comment to implement the new streamlined siting and permitting pathways for clean energy facilities in the Commonwealth. As part of this process, various straw proposals, guidance documents, and stakeholder sessions have identified many important areas and topics for input and consideration, ultimately leading to the development of proposed rules. On July 25, 2025, the Siting Board issued draft regulations and guidance for 980 C.M.R. 16.00 (Pre-Filing Consultation and Engagement Requirements) and requested written comments by August 1, 2025.[1] NSTAR Electric Company d/b/a Eversource Energy ("Eversource") and New England Power Company, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid ("National Grid"; together, the "Companies") hereby submit these written comments on the draft regulations and guidance for 980 C.M.R. 16.00 in response to the Siting Board's request.

[1] The Siting Board and EEA previously issued draft regulations and guidance for the implementation of the 2024 Climate Act, including 980 C.M.R. 1.00, 2.00, 13.00, 14.00, and 17.00, with the submission of written comments on July 28, 2025. It is expected that additional draft regulations and guidance on the topics of, among other things, site suitability criteria ("SSC") and cumulative impact analyses ("CIAs") will also be issued.

II. GENERAL COMMENTS ON KEY TOPICS

The Companies appreciate the opportunity to provide comments on the preliminary draft regulations set forth in 980 C.M.R. 16.00. The draft regulations provide a more flexible, responsive, and workable approach that encourages best practices for effective and successful community engagement. The Companies comments identify several issues that recur throughout the proposed regulations and related guidance materials. These recommendations are designed to encourage broad and effective engagement, increase the efficiency of the engagement and consultation process, and to clarify requirements for the benefit of all participants, while also achieving the statutory objective of streamlining the permitting of clean energy facilities.

Overall, the Companies continue to emphasize the importance of flexibility and responsiveness and to caution against rigid requirements or vague language that could unnecessarily extend the nature and scope of pre-filing engagement without providing additional benefits to project applicants or interested stakeholders. Such communications can create outreach fatigue and confusion in affected communities and with stakeholders, thereby decreasing the productiveness of conversations and frustrating the purpose of meaningful engagement. The Companies have suggested revisions in Attachment A, which are designed to more specifically shape outreach protocols.[2]

[2] For example, the definition of "Community" includes a minimum distance of one mile for non-linear projects (and ¼-mile for linear projects). In densely-populated areas, such as the Boston metro area, this would require including the Back Bay neighborhood in pre-filing engagements for a non-linear project located in Cambridge. For utility transmission and distribution infrastructure, such an overbroad definition of "Community" would require pre-filing engagement and consultation to many individuals and groups that are at a significant distance and that will not experience construction or operational impacts. It could also create notice "fatigue" and confusion. As indicated in the Companies' comments below, it is recommended that the definition of "Community" be revised in a manner consistent with the legal notice requirements set forth in the draft regulations for 980 C.M.R. 1.04(3)(f), i.e., 300 feet for transmission lines and ¼ mile for substations.

To assist the Siting Board staff and the Division of Public Participation ("DPP") in advancing proposed rules, the Companies also set forth below: (1) a description of the fundamental elements of successful community outreach programs based on the Companies' experience; (2) the purpose and potential role of the Massachusetts Environmental Policy Act ("MEPA") Office in coordinating consultations and pre-filing activities with state agencies; and (3) concerns about repeated references in 980 C.M.R. 16.00 to SSC and CIA.[3]

A. Successful Community Outreach Programs

The Companies emphasize that engagement with host communities and all affected stakeholders – both prior to filing permit applications and throughout the review and construction process – is a top priority. The Companies each support equitable and meaningful engagement that enables the timely and efficient siting of needed energy infrastructure in Massachusetts. To that end, meaningful engagement, early and often, is key to facilitating a shared understanding among stakeholders and project proponents. As the Companies have demonstrated through many transmission and distribution infrastructure projects, both jurisdictional to the Siting Board and not, the Companies employ a number of beneficial practices that the Companies believe should be (and in some cases are) reflected in the preliminary draft regulations. These practices include: (1) ongoing, two-way engagement with interested stakeholders (e.g., municipal officials, community groups, abutters, and environmental advocates) in a way and on a timeframe that is flexible and responsive to the interests and objectives of both the Companies and the interested stakeholders; (2) communicating technical project materials in plain language and translating that

[3] With respect to Community Benefits Plan and Community Benefits Agreement ("CBPs/CBAs"), the Companies note that the preliminary draft regulations obligate the Applicant to provide an "update on any ongoing discussions regarding Community Benefits Plans and Community Benefits Agreements." 980 C.M.R. 16.04(1)(i)(6). As the Companies have stated previously, they understand their responsibility to mitigate project-related impacts and will engage in good faith with affected stakeholders; however, there is no requirement in the 2024 Climate Act or Siting Board precedent that would mandate in every instance that a CBP and/or CBA be completed.

into relevant languages; and (3) providing ongoing opportunities, through a variety of forums and communications channels, for stakeholders to become informed of, and provide input on, the Companies' proposed projects. Because no two projects or communities are the same, the Companies tailor engagement and consultation to the specifics of the project at hand and the communities that are most affected. The Siting Board's regulations should reflect this essential understanding, and the Companies provide further suggestions in Attachment A to accomplish this.

Because pre-filing engagement and consultation will differ based on the scale and scope of a project and needs of individual stakeholders and communities, the Companies recommend that 980 CMR 16.00 focus on the baseline requirements for projects subject to consolidated permitting under G.L. c. 164, §§ 69T, 69U and 69V. From the draft rule, the Companies understand these to include:

- A meeting with DPP and Office of Environmental Justice and Equity ("OEJE") to introduce the project, describe outreach, consultations, and due diligence that have taken place to date, and confirm pre-filing engagement requirements
- One or more consultations with MEPA and relevant permitting agencies
- Municipal, stakeholder and public outreach in multiple formats
- Project webpage, hotline and designated email address
- Quarterly email updates
- Two public meetings that take the general form of a public comment hearing
- Notice in advance of filing

The Companies note that good project engagement conforms to the needs of individual stakeholders and may take the form of door-to-door outreach, mailers, one-on-one meetings between a project engineer and an abutter, appearances at Selectboard meetings, open houses, on-site meetings with Conservation Commission members, discussions with local interest groups, and many more. The Companies' understanding is that the draft rules leave room for all such forms

of engagement and do not seek to prescribe the timing, location, or content of these additional and very necessary interactions.

B. MEPA Consultation

The 2024 Climate Act preliminary draft regulations mandate that Applicants meet with the MEPA Office, as well as perform other relevant "Agency Consultation,"[4] as part of the pre-filing requirements for Applicants of proposed facilities seeking approval from the Siting Board. 980 C.M.R. 16.04(1)(e); 980 C.M.R. 16.06. The purpose of the MEPA consultation was not described in the 2024 Climate Act or the draft regulations and should be identified in the guidance or draft regulations. The Companies assume that the intention is for MEPA to facilitate consultation with state agencies and Applicants given its extensive experience coordinating project reviews. Depending on the scope of the proposed facility, the number of state agencies to be consulted could be significant. To increase the efficiency and usefulness of MEPA consultations, the Companies suggest the MEPA Office facilitate meetings with state agencies that have a permitting role for a proposed facility and the Applicant. The regulations would benefit from revisions to reflect the potential role that the MEPA Office can serve as a facilitator with state permitting agencies. Integrated consultations will support a shared understanding of projects, their potential community and environmental impacts, and agency expectations for project applications.[5] The Companies also recommend that MEPA establish a regular schedule for MEPA consultations to provide Applicants and state agencies with predictability and support the Siting Board's consolidated permitting process, similar to their current schedule for pre-application meetings on set days.

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[4] "Agency Consultation" in the draft regulations means "written, oral, and other communications with state, regional and local agencies with an interest in the permitting of a proposed LCEIF, SCEIF, or other Facility." 980 C.M.R. 16.02.

[5] This consultation process will also be useful for identifying and potentially resolving conflicting requirements between and among state agencies.

C. Inclusion of SSC, CIA, and the CIA Tool

At the outset, the Companies note that there seems to be a presumption in the draft pre-filing engagement regulations that Applicants will have fully completed their SSC, CIA, and application of the CIA implementation tool *prior to the initiation of engagement*.[6] In addition, it appears that the regulations expect that Applicants will have fully completed their route and site selection, including SSC and CIAs studies for *several (or all) site or route alternatives* under consideration.[7] The Companies maintain that SSC and CIAs will be time-consuming and expensive undertakings that must be developed on a project-specific basis and that public comment and agency input will be critical in shaping the analyses. In that regard, the Companies expect variations in the types of projects that are required to perform SSC analyses and CIAs and the content of such studies. The Companies' outreach and engagement plans are designed to solicit meaningful feedback from the community and affected agencies so that it can be included in the development and design of the specific project and associated analyses. Requiring complex, "fully baked" analyses at the outset of engagement is inconsistent with established outreach principles and the Siting Board's interest in encouraging feedback and input from stakeholders into such studies.

Moreover, the Companies are deeply concerned about referencing SSC, CIAs, and the CIA tool in these draft regulations because those topics are not fully established or understood and are subject to further rulemaking processes. Because the details regarding these topics are not yet finalized and the extent to which they will need to be a part of the pre-filing engagement process is not clear, the inclusion of these types of studies and analyses across the board is premature and

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6 Such regulations where completed SSC and CIAs processes appear to be anticipated include, inter alia, 980 C.M.R. 16.04(1)(a)(1), 16.04(1)(a)(2), 16.04(1)(d)(2), 16.04(1)(i)(3), 16.06(1)(a)(8), and 16.09(1)(a)(4).

7. The regulations where the application of SSC and CIA processes to multiple potential routes is apparent in, inter alia, 980 C.M.R. 16.04(1)(a)(1), 16.04(1)(a)(2), 16.04(1) (i)(3), 16.06(1)(a)(8), 16.09(1)(a)(4).

may ultimately be unnecessary. Therefore, the Companies suggest removing specific references in the substantive sections of the 980 C.M.R. 16.00 as indicated in the proposed modifications in Attachment A. As the Companies have previously noted, details regarding how EEA and the Siting Board intend to implement and codify the regulations governing SSC, CIA, and CIA tool have not yet been provided to applicants, agencies, and other stakeholders. The Companies' concerns regarding these topics are provided in the comments submitted on July 28, 2025, and will not be repeated here. However, the Companies do not believe it is necessary or appropriate to include references to other, substantive permitting schemes and requirements in 980 C.M.R. 16.00. Instead, the Companies suggest revising references to SSC, CIAs, and CIA tool to be more general in nature. Specific locations for such edits include 980 C.M.R. 16.04(1)(a)(1), 16.04(1)(a)(2), 16.04(1)(i).3, 16.06(1)(a)(8), 16.06(1)(a)(9), and 16.06(1)(a)(10), and are addressed in Section IV, below and within Attachment A.[8, 9]

[8] Notwithstanding the above, should references to SSC remain in the 980 C.M.R. 16.00 draft regulations, the language should be modified at a minimum to include the phrase "if applicable," to maintain consistency with EEA and the Siting Board's proper conclusion that the 2024 Climate Act does not require SSC for small and large clean transmission and distribution facilities that are located in existing public rights-of-way. In the same vein, other parts of the Siting Board's guidance materials contemplate that certain projects may not need to perform *both* a site suitability analysis *and* a CIA. See, e.g., EFSB Meeting Presentation, at 77.

[9] As indicated in prior comments, the Companies have significant concerns about conflating route/site selection with concepts of SSC and CIA. Future rulemaking processes will clarify these issues and, as such, at this point it is too early to determine whether and how such analyses should be reflected in the pre-filing engagement processes for clean energy infrastructure projects.

III. SPECIFIC COMMENTS ON DRAFT REGULATIONS

The Companies appreciate the detailed and comprehensive proposed draft regulations and guidance that were posted to the Siting Board's website for 980 C.M.R. 16.00 regarding pre-filing engagement and consultation requirements. Specific comments on these proposed draft regulations are set forth below and in Attachment A, provided herewith, which include the Companies' proposed revisions (in green).

- 980 C.M.R. 16.01(2) and (3) govern the scope of these pre-filing engagement regulations and seek to make these rules applicable to Siting Board jurisdictional projects subject to permitting outside of the 2024 Climate Act. However, because the draft rule has been designed to support a consolidated permitting process, elements of the rule are inappropriate for projects reviewed pursuant to G.L. c. 164, §§ 69J, 69J¼, which are subject to MEPA and must seek individual state, regional, and local permits separately under the pre-existing permitting structure.[10] Accordingly, the scope of 980 C.M.R. 16.00 should be limited to consolidated permit applications submitted under G.L. c. 164, §§ 69T, 69U and 69V, and references to other provisions should be deleted.

- The Companies note that the effective date of the regulations set forth in 980 C.M.R. 1.01(5) does not allow sufficient time for projects currently in development to comply, in full, with these pre-filing engagement requirements, particularly because many of the elements of the engagement process and the Siting Board's rules are still in active development. Accordingly, interim guidance or language allowing "substantial, good faith" efforts to comply with the intent of the regulations is necessary for applications that will be filed shortly after the effective date of the 2024 Climate Act consolidated permitting process. Indeed, the notion of "substantial, good-faith" efforts should be a governing principle throughout the Siting Board's regulations because many of the requirements in the rules will not be subject to an objective standard regarding compliance.

- The definition of "Application" in 980 C.M.R. 16.02 includes a "request for zoning exemption pursuant to M.G.L. c. 40A, § 3 or St. 1956, c. 665." For the reasons previously discussed in prior written comments, the Companies have significant concerns about the treatment of zoning relief within the Siting Board's consolidated process. References in the pre-filing engagement rules to zoning exemptions add to the confusion. Further, the reference in this definition to "Facility" should also be removed, for the reasons discussed below.

- The definition of "Community" in 980 C.M.R. 16.02 should be modified for consistency with the notice requirements set forth in 980 C.M.R. 1.04(3). This modification would

[10] For example, unlike the permitting pathway for clean energy infrastructure, other types of "facilities" subject to the Siting Board's authority will often be subject to MEPA review, wherein the MEPA procedures themselves may dictate the nature of engagement and consultation with state agencies.

align outreach with notice requirements and is also a more reasonable proxy for the scope of potential impacts of infrastructure projects on affected residents and communities. The Companies also note that at times the term "community" is capitalized in the draft regulations and on other occasions it is not. The regulations should be consistent in this regard.

- The definition of "Facility" should be deleted because it is inconsistent with other definitions of the same term in the G.L. c. 164, § 69G and 980 C.M.R. 1.00 and could cause significant confusion. Uses of the term "Facility" throughout 980 C.M.R. 16.00 should be modified accordingly.

- The term "Key Stakeholder" should be modified to remove the word "Key" because it is stated so broadly and it should not imply differing values between and among stakeholders (especially in relation to one or more groups that are not included in the definition).

- The Companies recommend that the regulations provide definitions for the terms "Meeting" and "Public Meeting" to ensure that the meaning of the term is well understood throughout 980 C.M.R. 16.00. There are numerous places in the proposed regulations referencing "meetings with Stakeholders" and "Community meetings." The Companies note that holding such meetings may not always be possible. Indeed, it is common that the Companies do not receive responses from individuals, groups, organizations, and municipal agencies to repeated meeting invitations (whether targeted face-to-face discussions, open houses, or large-scale presentations). To require these "meetings" with defined groups at particular points in the engagement process provides potential opponents an opportunity to delay project development indefinitely simply by refusing to meet. Thus, the Companies suggest that language be modified to impose a "good faith" effort by the Applicant to schedule such meetings, and to provide related documentation.

- Relatedly, the phrase "public meeting" used throughout the draft regulations often seems to anticipate a formal process akin to the Siting Board's Public Comment Hearing, whereby the Applicant makes a scripted PowerPoint presentation and then takes questions from the public. While this is a useful format in certain circumstances, in the Companies' experience, detailed and productive interactions with interested organizations can occur through a more informal "open house" process where comprehensive conversations can be conducted with subject matter experts and multiple translation and interpretation opportunities can be provided. The regulations should reflect this distinction and encourage the most effective forums and methods for public engagement.

- 980 C.M.R. 16.03(1) articulates requirements for the DPP, which is within the Department of Public Utilities and not subject to the Siting Board's direct control. This section should be removed because there is no legal basis for the Siting Board to dictate DPP authority and its related actions through the Siting Board's regulations.

- 980 C.M.R. 16.03(2) states that "The Applicant shall bear responsibility for all costs associated with outreach activities and obligations." Because the Siting Board has no statutory authority over the incurrence of costs or the recovery thereof, this section should be removed as it is outside the Siting Board's jurisdiction.

- 980 C.M.R. 16.03(3) states that DPP may communicate with "parties, individuals and entities seeking to intervene in Board proceedings" prior to the filing of an Application, and that such communication will not be considered ex parte. The Siting Board has an existing regulation regarding ex parte communications in adjudicatory proceedings (980 C.M.R. 1.03(7)) and additionally does not have the authority to dictate the nature of conversations conducted by or with DPP, an agency not within its specific purview. Accordingly, this provision should be deleted. However, the Companies would welcome clarification regarding the purpose and intent of this language and whether DPP and its staff are permitted to advise the Siting Board or its staff or otherwise participate in a Siting Board proceeding.

- 980 C.M.R. 16.04(1)(e) sets forth requirements for at least one consultation with MEPA prior to filing. The Companies propose modifications to this section that would, as described above, make use of MEPA's facilitation expertise to coordinate pre-filing consultation with relevant agencies. Under the Companies' proposed revisions, the Companies would endeavor to coordinate state agency consultations through MEPA.

- 980 C.M.R. 16.04(1)(b) requires the Applicant to "meet with DPP and OEJE individually or jointly at the start of the Pre-filing Outreach Period … to discuss its proposed outreach plan and clarify pre-filing consultation and engagement requirements." To coordinate and streamline these meetings, the Companies suggest that DPP and the OEJE set "office hours" every week or month for such interactions. Presently, MEPA has established weekly office hours for pre-filing coordination with the OEJE and MEPA staff for projects that are subject to MEPA review. These coordinated sessions could be used as a model for the DPP and OEJE meetings. The provisions of 980 C.M.R. 16.05 should be modified accordingly.

- The Companies suggest that the 45-day timeframe set forth in 980 C.M.R. 16.04(1)(h) for the submission of pre-filing notice requirements be shortened to 30 days. This will decrease the overall time associated with permit development and filing and will allow for more time to consider and include the input of stakeholders from the engagement process without delaying the filing of applications. Relatedly, the 60-day window for submission of the ultimate filing should be extended to 90 days to provide greater flexibility to include community input into filings for complex cases and decrease the potential for requiring the resubmission of pre-filing notice. The Companies note that their recommended timeframes are most consistent with the similar requirements implemented by MEPA for its project reviews.

- 980 C.M.R. 16.04(i).4 requires Applicants to provide "*Details* of any partnerships developed with Stakeholders and/or Community" (emphasis added). The Companies suggest replacing the word "details" with the more general word "description," which will allow ongoing conversations with Stakeholders to occur without divulging sensitive information.

- As part of the MEPA consultation process, 980 C.M.R. 16.06(a).3 and .4 specifically require the Applicant to provide both completed applications for all state permits that would otherwise be required as well as draft permits that would be issued by those agencies. This information is unlikely to be available at the time of the consultation process,

particularly when, as typically would be the case, this consultation takes place early in the pre-filing process. These provisions should therefore be removed.

- Similarly, 980 C.M.R. 16.06(a).8, .9 and .10 include specific references to SSC and CIA concepts that are currently the subject of ongoing rulemaking processes. Given the fluid status of these topics, the Companies suggest that these subsections be removed from the pre-filing regulations.

- 980 C.M.R. 16.06(a).12 requires discussion of decommissioning and site restoration. As the Companies have previously commented, such concepts are not generally appropriate for most utility infrastructure facilities and requiring their discussion as part of pre-filing engagement may be misplaced. A similar reference in 980 C.M.R. 16.07(1)(a).5 should also be removed.

- 980 C.M.R. 16.06(b).2 requires "A status update and/or results of any scientific studies or analyses that are ongoing or have been completed." The Companies believe this language is both overly broad, requiring continual updating, and suggests replacing "scientific" with "project specific." The regulation at 980 C.M.R. 16.07(1)(a).3 requires, for transmission projects, meetings with Stakeholders and the Community that "present potential route/site alternatives under active consideration, the Applicant's preferred alternative, a comparison of anticipated impacts of each alternative, and proposed mitigation measures." Similar to an earlier comment, the Companies will not know or have identified all impacts associated with every potential route during early engagement. Indeed, the Companies seek feedback to further inform route and site selection decisions throughout the engagement process.

- 980 C.M.R. 16.09 discusses requirements for project websites, some of which will not be immediately available. Thus, the Companies suggest 980 C.M.R. 16.09(1) be amended to read "The Applicant shall establish a project webpage, and as applicable, include the following information as it becomes available during the Pre-Filing Outreach Period."

- 980 C.M.R. 16.10(1) contains vague language about emailing the "Pre-filing Notice to *person(s) the Applicant met* during pre-filing consultation and engagement, including host community(ies) of the project" (emphasis added). The Companies suggest more specific direction, such as including anyone who registered for email updates as part of the pre-filing engagement process.

- Lastly, because 980 C.M.R. 16.10(3) articulates requirements for the DPP, the second sentence of this section should be removed because the Siting Board should not have its rules dictating specific DPP authority or actions.

IV. CONCLUSION

The Companies greatly appreciate the opportunity to participate in this important process and submit these comments on the Siting Board's proposed draft regulations and guidance materials regarding the pre-filing consultation and engagement process. The Companies look forward to reviewing the comments of other interested stakeholders and continued participation in the remaining phases of the Siting Board's rulemaking process, including any working groups or technical sessions, to better formulate a fair and reasonable set of rules, guidelines, and standards to implement the requirements of the 2024 Climate Act.

Respectfully Submitted,

NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY AND NEW ENGLAND POWER COMPANY, MASSACHUSETTS ELECTRIC COMPANY AND NANTUCKET ELECTRIC COMPANY EACH d/b/a NATIONAL GRID

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