COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

JOINT INITIAL 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 STRAW PROPOSAL ON SITE SUITABILITY AND PRESENTATION ON CUMULATIVE IMPACT ANALYSIS

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 Healey. The 2024 Climate Act requires several agencies, including the Executive Office of 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 and guidance documents have been issued identifying areas and topics for input and consideration, ultimately leading to the development of proposed rules. On May 5, 2025, a stakeholder session was held to discuss: (1) a straw proposal on site suitability criteria; and (2) guidance on the topic of cumulative impact analysis ("CIAs").

Written comments were requested from stakeholders on these topics by May 27, 2025. 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"), submit these written comments responding to the straw proposal, guidance document, and stakeholder session on the topics of site suitability and CIAs. As indicated in prior written comments, the Companies believe that it is imperative that, prior to the development of draft rules, further technical sessions are conducted by EEA and

the Siting Board with interested stakeholders experienced in siting energy facilities in Massachusetts to discuss the many complex issues that must be addressed for a successful and prompt implementation of the 2024 Climate Act. This is particularly true with respect to site suitability and CIAs, which, as drafted, have significant implications that will unnecessarily delay projects that are intended to benefit from siting reform and impede the ability of the Commonwealth to meet its clean energy goals.

II. BACKGROUND

The Companies strongly support the 2024 Climate Act and recognize that it created an enormous task for the Siting Board and other EEA agencies; namely, creating a functional integrated review process for multiple types of clean energy projects, to be implemented on or before July 1, 2026. The stakeholder process developed thus far has reflected significant, thoughtful work by EEA and the Siting Board. However, the Companies have elevated concerns that the site suitability straw proposal and CIA guidance require considerably more discussion and refinement because, as currently proposed, they are not ready to be included in draft rules in the time provided by the Legislature and, in some cases, they go well beyond the intent of what was authorized in the 2024 Climate Act.

As a governing principle, the 2024 Climate Act requires EEA and the Siting Board to develop a workable structure for the permitting of clean energy facilities that can be implemented by the statutory deadline of March 1, 2026; at this point, given their direction, scope and scale, the Companies do not believe the site suitability and CIA proposals are sufficiently advanced to a level of detail, understanding, and clarity that they can be implemented by the statutory deadline. At the same time, the Companies are in active development on various clean energy infrastructure applications to be submitted during 2026 pursuant to the new permitting structure created by the

2024 Climate Act. Applicants will simply be unable to provide the level of information contemplated if these complex and burdensome requirements (which in many cases are presently outlined in only preliminary, conceptual terms) are applied to projects next year. Instead, EEA and the Siting Board should focus on a workable structure consistent with the requirements of the 2024 Climate Act that can be developed for immediate implementation in 2026.[1]

Further, the Companies believe that the site suitability straw proposal and CIA guidance issued by EEA and the Siting Board conflict in several respects with the purpose of the 2024 Climate Act – to streamline and expedite the permitting of necessary clean energy infrastructure in the Commonwealth to meet climate change goals. These critical goals simply cannot be met without an expeditious and unprecedented expansion of clean and affordable new utility transmission and distribution ("T&D") infrastructure; substantial new, clean T&D infrastructure is the essential linchpin of building a robust electric system that can facilitate the transition to electrification and a reduced reliance on fossil fuels. However, when these most recent proposals

[1] The Companies believe that such a position is not the "end of the story," but instead, only the beginning. For example, the Siting Board's current route selection and environmental impact analyses have been developed over several decades, refined to account for new technologies and methodologies. These processes have consistently evolved to ensure reasonable application across the Commonwealth and have never been the subject of a prescriptive set of rules. The Companies suggest that the development of site suitability criteria and CIAs through the real-world adjudicatory process would be the most effective way at expeditiously implementing and applying a workable and agile system.

are layered on top of the proposed prefiling engagement and application requirements in sequence, the lead time needed for preparing and filing complete applications could be several years.[2,3]

As noted in their prior comments, together, the Companies provide safe and reliable electric and gas service to over 3 million customers in approximately 320 out of the 351 cities and towns within the Commonwealth. Utility infrastructure, such as that owned, operated, and proposed by the Companies, is located everywhere in the state – within rural, suburban, and urban municipalities – because without it, electricity customers literally have no power for their homes and businesses. To that end, the Companies have an obligation to serve all customers in a reliable and affordable manner and must ensure their T&D systems meet all applicable federal, regional, and state reliability requirements of the Federal Energy Regulatory Commission ("FERC"), the Independent System Operator-New England ("ISO-NE"), the New England Power Pool ("NEPOOL"), and the Department of Public Utilities ("DPU"), as well as providing the infrastructure necessary to meet the Commonwealth's robust greenhouse gas reduction and climate change goals.

As state courts and the Legislature have repeatedly stated, a reliable energy supply inherently furthers the public good and is essential to the health and welfare of residents and businesses in Massachusetts. See, e.g., Town of Sudbury v. Energy Facilities Siting Bd., 487

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[2] For example, the site suitability straw proposal anticipates CIA and the site suitability analyses will be developed and made available for discussion as part of the Companies' prefiling engagement process, which is anticipated by prior straw proposals to take place up to two years in advance of filing the application with the Siting Board. Each of these new elements is a substantial undertaking that will require a considerable amount of time and cost to develop to the point that they can be included as part of the prefiling engagement process. The Companies estimate that, in addition to the proposed prefiling engagement and stakeholder requirements, the development of analyses to support site suitability and CIA (and to combine it with route/site selection) will take at least an additional six months.

[3] The Companies recommend that, as part of the process of expediting the siting of new clean energy infrastructure and minimizing impacts, EEA and the Siting Board encourage state agencies and municipalities to provide input regarding available sites, routes, and properties within their control as potentially preferred locations for such infrastructure, including efficient co-location opportunities.

Mass. 737, 748 (2021) ("State law makes it clear that the residents of the Commonwealth simply cannot be exposed to foreseeable and avoidable power outages. If government and industry fail to properly plan and act to timely address our energy needs, enormous suffering can result"); see St. 1997, c. 164, § 1(h) (Electric Utility Restructuring Act) ("reliable electric service is of utmost importance to the safety, health, and welfare of the commonwealth's citizens and economy"); St. 1997, c. 164, § 1(a) ("electricity service is essential to the health and well-being of all residents of the commonwealth, to public safety, and to orderly and sustainable economic development"). To deliver these public services, the Companies are continually upgrading their T&D systems and have proposed numerous jurisdictional T&D facilities for review and approval by the Siting Board and the DPU over the last ten years.[4]

The Companies' concerns with the most recent set of proposals are not only limited to matters of timing. The proposals on site suitability and CIA, as contemplated, include many

[4] See, e.g., NSTAR Electric Company d/b/a Eversource Energy, EFSB 22-03/D.P.U. 22-21 (2024); NSTAR Electric Company d/b/a Eversource Energy, EFSB 22-01 (2022); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 20-67 (2022); NSTAR Electric Company d/b/a Eversource Energy, EFSB 19-06/D.P.U. 19-142/19-143 (2022); New England Power Company d/b/a National Grid, EFSB 19-04/D.P.U. 19-77/19-78 (2021); NSTAR Electric Company d/b/a Eversource Energy, EFSB 19-03/D.P.U. 19-15 (2021); NSTAR Electric Company d/b/a Eversource Energy, EFSB 14-04A/D.P.U. 14-153A/14-154A (2021); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 19-80 (2020); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 19-46 (2020); New England Power Company d/b/a National Grid, D.P.U. 19-16 (2020); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 18-155 (2020); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 18-21 (2019); NSTAR Electric Company d/b/a Eversource Energy, EFSB 18-03 (2019); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 17-147 (2019); NSTAR Electric Company d/b/a Eversource Energy, EFSB 17-02/D.P.U. 17-82/17-83 (2019); NSTAR Electric Company d/b/a Eversource Energy, EFSB 16-02/D.P.U. 16-77 (2018); NSTAR Electric Company d/b/a Eversource Energy, EFSB 15-04/D.P.U. 15-140/15-141 (2018); NSTAR Electric Company d/b/a Eversource Energy, EFSB 15-03/D.P.U. 15-64/15-65 (2017); NSTAR Electric Company d/b/a Eversource Energy, EFSB 14-04/D.P.U. 14-153/14-154 (2017); NSTAR Electric Company d/b/a Eversource Energy, EFSB 14-02/D.P.U. 14-73/14-74 (2017); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-85 (2016); New England Power Company d/b/a National Grid, D.P.U. 15-44/15-45 (2016); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-02 (2015); New England Power Company d/b/a National Grid, D.P.U. 14-128/14-129 (2015); NSTAR Electric Company, D.P.U. 14-08 (2015); NSTAR Electric Company, D.P.U. 14-03 (2015); NSTAR Electric Company, D.P.U. 13-177/13-178 (2015); NSTAR Electric Company, D.P.U. 13-86 (2014); NSTAR Electric Company, D.P.U. 13-126/13-127 (2014); NSTAR Electric Company, D.P.U. 13-64 (2014); New England Power Company d/b/a National Grid, EFSB 13-2/D.P.U. 13-151/13-152 (2014); New England Power Company d/b/a National Grid, EFSB 12-1/D.P.U. 12-46/12-47 (2014).

duplicative features with overlapping elements that would need to be developed, analyzed, and evaluated, especially when considered in conjunction with the Siting Board's historical review of route and site selection and environmental-impact mitigation. In some instances, the proposals are at odds with current practices and could complicate existing methods and processes.[5] The existing processes should be repurposed whenever possible to blend the new requirements of the 2024 Climate Act with the existing, substantive features of the Siting Board's review in a consistent manner. A more efficient means of addressing site suitability and CIA can and should be a significant focus of refinement before draft rules are developed.

In addition, the Siting Board should take great care to ensure that clean, utility T&D infrastructure is not de facto prohibited or unduly complicated by the site suitability straw proposal or CIA guidance. As an initial matter, the straw proposal issued by the Siting Board and EEA appears to apply site suitability requirements to facilities that are expressly outside the scope dictated by the 2024 Climate Act. As stated in the 2024 Climate Act, clean utility T&D infrastructure is exempted from site suitability analysis, except when it is located in newly established public rights of way ("ROWs"). St. 2024, c. 239, §§ 5, 23(b)(iv). The EEA and Siting Board proposals do not reflect this important provision. In addition, the site suitability straw proposal presumptively specifies that locating needed facilities within wetlands resources areas, protected species habitat, proximate to historical properties, or on lands subject to Article 97

[5] For example, the site suitability straw proposal (at 6) anticipates that "[h]igher suitability scores would indicate more suitable locations for energy infrastructure development." However, standard Siting Board route selection methodologies are based on a lower score indicating a "better/less impactful criterion measure" for routes under consideration. See, e.g., NSTAR Electric Company d/b/a Eversource Energy, EFSB 22-03/D.P.U. 22-21 (Greater Cambridge Energy Program), at 53 n.34.

approval are to be treated as "ineligible" areas, which is extremely troublesome.[6] From a transmission line routing perspective, this would inevitably lead to more lengthy and circuitous routes, and thus, increased costs, construction impacts, construction duration, and other environmental impacts – all of which would be to the detriment of the communities and customers the Companies serve.

Nowhere in the 2024 Climate Act is there such a prohibition, nor should one be inferred. While the Companies strive to avoid sensitive resource areas wherever feasible, as the Siting Board is aware, clean utility T&D infrastructure can be reasonably sited and constructed within such areas, subject to well-established regulatory review processes that scrutinize whether impacts can be avoided, and if they cannot be, examine how they can be minimized and mitigated.[7] The Massachusetts Environmental Policy Act ("MEPA") Office, Department of Environmental Protection ("DEP"), Department of Conservation and Recreation ("DCR"), Massachusetts Historical Commission ("MHC"), and the Division of Fisheries and Wildlife ("DFW") under the Natural Heritage and Endangered Species Program ("NHESP"), among others, have standards, regulations, and policies pursuant to which they regularly review and, in appropriate circumstances, authorize such proposals subject to rigorous conditions. The Siting Board's process should incorporate the well-established standards and approaches applied by these agencies instead of disregarding them through the imposition of general prohibitions. This is especially true since the Companies' T&D systems are not major sources of pollution or emissions

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6 Although the site suitability guidance suggests that utility projects may seek a "waiver" in certain circumstances, there is no detail on what such a waiver process would entail. Regardless, a waiver requirement is not the correct approach for siting utility T&D facilities. There should be no presumption that siting needed utility clean T&D infrastructure in designated resource areas is per se impermissible.

7 The mitigation hierarchy of avoid/minimize/mitigate is woven throughout the existing regulatory framework and was acknowledged and endorsed in the EEA presentation of its Site Suitability Methodology for Energy Infrastructure Straw Proposal (Stakeholder Session #4 Slide 28).

and have an excellent record of compliance with existing standards to minimize and mitigate impacts to sensitive resources. Despite this reality, the site suitability straw proposal and CIA guidance appear to tip the scales such that utility infrastructure will be very difficult or nearly impossible to permit in many instances, which is not only unwarranted, but would also run counter to the very intent of the 2024 Climate Act – to expedite the permitting of such integral facilities.

The Companies' comments below address these fundamental issues in greater detail.

III. SITE SUITABILITY STRAW PROPOSAL

A. General Comments on Site Suitability

1. The Site Suitability Requirements Do Not Apply to Existing ROWs.

Legally, the site suitability straw proposal does not clearly and accurately reflect that, based upon the plain language of the 2024 Climate Act, site suitability requirements do *not* apply to clean T&D projects *unless* they require the establishment of a new ROW. Section 5 of the 2024 Climate Act amends G.L. c. 21A, by adding section 30, which authorizes EEA to develop a methodology for determining the "suitability of sites" for three kinds of projects: (1) "clean energy generation facilities"; (2) "clean energy storage facilities"; and (3) "clean transmission and distribution infrastructure facilities in newly established public rights of way" (emphasis added). Similarly, Section 23(b)(iv) of the 2024 Climate Act amends G.L. c. 25A by adding section 21, which also makes EEA's site suitability guidelines applicable to three categories of projects: (1) "small clean energy generation facilities"; (2) "small clean energy storage facilities"; and (3) "small clean transmission and distribution infrastructure facilities in new rights of way" (emphasis added). Other than these two clear references, the 2024 Climate Act has no provision that applies site suitability analysis to clean T&D infrastructure.

Thus, consistent with well-established principles of statutory construction and in recognition of the extensive, preexisting ROWs used by utilities to provide safe and reliable service to customers, the 2024 Climate Act has exempted new clean T&D infrastructure in ***existing*** ROWs (both overhead and underground) from site suitability analysis. See Providence and Worcester Railroad v. Energy Facilities Siting Bd., 453 Mass. 135, 142 (2009) ("We begin with the language of the statute, as 'the principal source of insight into legislative intent'"). Section 5 of the 2024 Climate Act calls for a site suitability analysis only for "newly established rights of way" (also stated in Section 23 as "new rights of way"). If the Legislature had intended to include existing ROWs for site suitability analysis, it would have done so explicitly. New England Power Co. v. Amesbury, 389 Mass. 69, 74-75 (1983) ("We do not imply language in a statute if the Legislature has not provided it"). Instead, the absence of any statutory reference to existing ROWs, including public roadways, transportation corridors, and ROWs that contain other forms of infrastructure (e.g., cable, water, sewer, gas, and communication facilities), dictates that site suitability for clean T&D infrastructure is limited to only where new ROWs are being proposed for development. Interpreting the two references to site suitability in the 2024 Climate Act to existing ROWs consistently with each other and in furtherance of the objective of efficient infrastructure is reasonable and appropriate. Attorney Gen. v. School Comm. of Essex, 387 Mass. 326, 336-337 (1982) ("We construe statutes that relate to the same subject matter as a harmonious whole and avoid absurd results"); Telesetsky v. Wight, 395 Mass. 868, 873 (1985) ("[A] statute should be read as a whole to produce an internal consistency").

The Companies make extensive use of well-functioning T&D and transportation ROWs throughout the Commonwealth and strongly support the notion that consistent, continued use of established linear corridors should generally be preferred to the establishment of new ROWs.

Active use of these established ROWs is typically the most cost-effective way of delivering reliable electricity service to customers while minimizing environmental impacts across the Commonwealth. Accordingly, and consistent with the express language of the 2024 Climate Act, site suitability guidance for clean T&D should address only those limited circumstances where a project requires the establishment of a new ROW.

2. The Companies Strongly Oppose the Imposition of Mitigation Fees and the Creation of "Ineligible Areas."

The site suitability straw proposal includes two other elements that are not found within the 2024 Climate Act – the implementation of a mitigation fee framework for large clean T&D infrastructure and the creation of "ineligible areas" that would materially impede the siting of necessary T&D facilities. The Companies oppose both proposals because they are unsupported by statutory authority and they introduce complications and additional cost at a time when the industry urgently needs a simple, workable, and affordable framework to streamline the Siting Board's review of clean T&D infrastructure.

a. Mitigation Trust Fund

The site suitability straw proposal (at 8-9) seeks the establishment of a "mitigation trust fund," apparently linked to the site suitability guidance, through which the Siting Board and the Department of Energy Resources ("DOER") would collect mitigation fees from applicants and disperse mitigation funds to host municipalities and EEA agencies. The straw proposal notes that such a mitigation fund "is not required by the 2024 Climate Act" (Straw Proposal at 1) and that "additional legislation may be needed to provide statutory authority" to implement and manage such a fund (Straw Proposal at 9). The Companies agree that there is currently no legislative authorization for such a fund and that additional statutory authority would be required for this

proposal.[8] Silva v. City of Attleboro, 454 Mass. 165, 170 (2009); Emerson Coll. v. City of Boston, 391 Mass. 415, 424 (1984). Consideration of this issue now, when there is a pressing need to develop procedures to implement the explicit requirements of the 2024 Climate Act, is inefficient given the limited time before the full implementation date of July 1, 2026.

Moreover, the straw proposal lacks any detail on how mitigation fees would be calculated, collected and (if assessed upon a public utility)[9] recovered from customers. There is a significant risk that mitigation fees could discourage clean energy development, particularly in areas where alternative sites are not available or clearly inferior. To the extent that these fees are intended to be imposed on utility projects, they would certainly increase costs to the Commonwealth's electric customers. Infrastructure development should not be categorically viewed as a burden that has to be financially mitigated, but rather a necessity of the existing growth, development prospects, and the clean energy foresight of the Commonwealth.

It is important to recognize that the Companies (and other clean energy developers) already comprehensively mitigate the impacts of their projects pursuant to state and local permitting requirements (e.g., replication of wetlands, replanting of trees, noise and visual mitigation) at a significant expense. Imposing a specific fee for this purpose would be duplicative and costly to customers. Similarly, there is no discussion in the straw proposal regarding how such a mitigation fee would interact with any Community Benefits Plan ("CBP") or Community Benefits Agreement ("CBA") between a clean energy developer and host communities. Mitigating the same impacts

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[8] The Companies recognize that the 2024 Climate Act provides DOER authority to establish rules for local governments to impose mitigation fees for small clean energy infrastructure facilities. St. 2024, c. 239, § 23(b) ("The department may promulgate rules and regulations allowing local governments to set fees for compensatory environmental mitigation for the restoration"). However, as described below, the imposition of mitigation fees on utility T&D infrastructure is unnecessary and would be costly to customers.

[9] As discussed above, the Climate Act calls for site suitability guidance for clean T&D projects only when the project requires the establishment of a new ROW. To the extent that mitigation fees are imposed as part of the site suitability guidance, most clean T&D projects would not be subject to such fees.

through three different mechanisms would be inconsistent with the goals of a consolidated permitting process and would impose unnecessary costs on already burdened customers. For these reasons, the Companies oppose further consideration of the mitigation fees in the context of site suitability.

b. Ineligible Areas

The Companies also oppose the creation of "ineligible areas," particularly for linear facilities, as part of the site suitability process because it would render it virtually impossible to establish a new ROW of any length that does not traverse one or more of these land use categories.[10] As discussed above, the Commonwealth already has well-established permitting, licensing, and mitigation practices for each of the land uses proposed as "ineligible."[11] Categorically supplanting existing permitting processes and review standards is not required by the 2024 Climate Act and will frustrate the purpose of the Act to facilitate and streamline clean energy development. The 2024 Climate Act stakeholder process should adopt these existing permitting schemes, not replace or bypass them with an entirely new set of standards. Clean energy facilities, which, by definition and through the passage of the 2024 Climate Act, are in the public interest should not be excluded from areas that are open to other types of development via existing permitting processes before MEPA, DEP, DFW, MHC, and other agencies. Thus, the Companies recommend that the site selection straw proposal notion of ineligible areas be discarded in favor of applying current, effective regulatory mechanisms in an efficient and consistent manner.

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[10] Again, the Companies note that the 2024 Climate Act explicitly limits site suitability guidance to clean T&D projects that are located in a new ROW.

[11] This includes, inter alia, DEP's extensive programs for wetland resources, Chapter 91 licensing, and water quality certificates; DFW protocols for endangered species and habitat protection under the NHESP; and MEPA and DCR rules and procedures for conservation and recreational lands pursuant to Article 97 of the Massachusetts Constitution. The same can be said regarding MHC's role regarding historical properties. These regulatory standards and programs are well understood and thoughtfully developed by expert agencies to ensure natural and cultural resources are reasonably protected.

B. Specific Responses to Questions

The Companies' responses to the specific questions asked by EEA on the site suitability straw proposal are set forth below:

Site Suitability Criteria

1. Are the proposed evaluation criteria appropriate? Are there criteria that should be applied to certain types of infrastructure and not others?

As discussed above, the Companies anticipate that the site suitability criteria under consideration in this straw proposal generally will not be applicable to their projects. That said, the Companies agree that the seven site suitability evaluation criteria provided in the statute and the straw proposal, i.e.,: (1) development potential; (2) climate change resilience; (3) carbon storage and sequestration; (4) biodiversity; (5) social and environmental benefits; (6) social and environmental burdens; and (7) agricultural production potential, are appropriate considerations when establishing a new ROW for a clean T&D project. However, the Companies emphasize that reliability and cost must also be directly considered and weighed as part of the evaluation of suitable sites. In fact, for clean T&D infrastructure, reliability and cost are paramount considerations. Simply stated, as part of their obligation to serve, utility companies must build infrastructure wherever there is customer load and maintain system reliability requirements, with due recognition to environmental and community impacts. Public utility infrastructure is not the same as private, for-profit projects because the Companies are guided by regulatory requirements, customer needs, and the existing network of infrastructure (i.e., adjacent to existing transmission lines and interconnecting substations). Moreover, public utilities are required at all times to act in the interests of ratepayers, to serve load in a cost-effective manner, and to recover related costs when they are prudently incurred.

Even if a proposed new ROW were to score favorably on the seven criteria identified in the straw proposal, it would not be a proper site for new clean T&D infrastructure if it did not robustly and efficiently address the identified need. Need and cost are primary considerations and should not be treated as an afterthought in any site suitability consideration given increasing customer demand as a result of electrification and clean energy development. Many of the Companies' T&D projects are not based solely on load growth, but instead are required to address asset condition or other reliability considerations. As part of their petitions to the Siting Board, the Companies already provide extensive need cases to support their projects and the Siting Board has decades of experience and expertise reviewing and evaluating such analyses. Thus, the Companies suggest that the issue of "development potential" be aligned with and considered as part of the Siting Board's need review for a particular project, given the geography, customer base, existing infrastructure, and anticipated loading trends in a specific area.

Additionally, the Companies underscore that it is generally not the case that utilities establish new ROWs for their projects. However, recognizing that EEA is required by the 2024 Climate Act to establish such guidance, the Companies offer the following thoughts on site suitability considerations for new ROWs:

- Utility ROWs are continuous corridors that connect an established "point A" to an established "point B." By necessity, such ROWs comprise tens or hundreds of individual "sites" with varying development potential, climate change resilience, carbon storage and sequestration characteristics, biodiversity, and social and environmental burdens.

- Instead of creating a detailed scoring mechanism that incorporates all these tens or hundreds of individual sites, the Companies suggest that EEA establish general preferences (e.g., brownfields over greenfields) that can be used to screen potential routes in the atypical circumstance that a project requires.

- This framework should also take into account the property rights issues associated with acquiring a new, continuous ROW and the possible need for eminent domain takings.

- Utilities would be required to show how this framework is used and preferences are weighed in assessing potential new ROWs.

2. Are there other criteria that should be added (e.g., public health, safety, or welfare-related metrics)? Please provide proposed metrics and data sources to assess any recommended criteria.

The other possible criteria mentioned (public health, safety, and welfare) should not be added as metrics because these are granular site- and technology-specific issues that the Siting Board already assesses as part of its review. EEA should be mindful not to transform the issues typically reviewed by the Siting Board (and which are the subject of its expertise) into a prescriptive site suitability process that eliminates the Siting Board's ability to balance a host of factors (reliability, cost, construction impacts, permanent impacts) in reviewing proposed facilities.

3. EEA proposes to assess social and environmental burdens by screening areas for existing burdens, proximity to vulnerable populations, and impacts of specific infrastructure types:

a. Is this the right way to assess social and environmental burdens?
b. Would this be duplicative of the cumulative impact analysis requirements?
c. Should the site suitability methodology consider whether an area hosts a disproportionately large amount of specifically energy infrastructure?

The 2024 Climate Act requires both a site suitability framework and a cumulative impacts analysis for certain energy projects – without specific legislative guidance differentiating those terms. As a result, the site suitability straw proposal and the CIA guidance contain significant overlap with each other (as well as with the guidance for CBPs/CBAs and the Siting Board's existing route selection methodology). In combination with other requirements, the site suitability and CIA proposals risk placing reliability and affordability as less important considerations even though they are two of the principal factors that need to be weighed by the Siting Board. Town of Sudbury v. Energy Facilities Siting Bd., 487 Mass. 737, 754 (2021) ("nothing in the statutory framework dictates how the board must balance these different environmental considerations in

every case. The statute does not categorize or prioritize impacts"). The careful weighing of relevant statutory considerations has historically been at the heart of the Siting Board's statutory mandate. See, e.g., id.; Johnson v. Energy Facilities Siting Bd., 495 Mass. 197, 205 (2025); Conservation Law Found. v. Energy Facilities Siting Bd., 494 Mass. 594 (2024); GreenRoots, Inc. v. Energy Facilities Siting Bd., 490 Mass. 747 (2022); Town of Sudbury v. Energy Facilities Siting Bd., 487 Mass. 737, 754 (2021); City of Brockton v. Energy Facilities Siting Bd., 469 Mass. 196, 213 (2014). The 2024 Climate Act, while adding certain new environmental and community factors, elevates the streamlining of new clean energy infrastructure as its overarching purpose. The Companies recommend that the Siting Board take great care to maintain its authority to give due weight in balancing environmental factors with consideration of reliability and cost.

Thus, the Companies recommend that the agencies distinguish the scope and purpose of site suitability and CIA as follows.[12] The site suitability criteria should be used by renewable generation and battery storage developers (and by utilities when establishing new ROWs) to evaluate the **physical characteristics** of possible sites against key priorities of the Commonwealth and to identify tradeoffs between such priorities. Its primary value is during the site selection process and could be properly investigated and reviewed by the Siting Board in that portion of the application. Cumulative impacts analysis should focus on **historic impacts/burdens** that affect a community where infrastructure is to be located, to contextualize individual project impacts. A CIA's primary value is during the review of project impacts, to focus efforts on minimizing undue burdens on the host communities. Creating a clear distinction between site suitability and CIA will better inform the regulatory process and minimize the potential for appeals based on disparate results of the two types of analysis.

[12] The Companies provide a more specific discussion on the CIA proposals in Section IV, below.

4. **Should EEA assess social and environmental benefits by adding points if a project would provide certain benefits, like siting facilities on brownfields or landfills, siting on the built environment, providing habitat benefits, creating local jobs, or displacing an emitting resource?**

   a. **Are these the right ways to assess social and environmental benefits, or are there different benefits or metrics we should consider?**

Social and environmental benefits are already considered extensively as part of the Siting Board's consideration of site-specific factors for jurisdictional facilities (such as restoration of contaminated sites, creation of habitat, provision of local jobs, and enhancement of recreational resources such as bicycle paths). See, e.g., NSTAR Electric Company d/b/a Eversource Energy, EFSB 22-03/D.P.U. 22-21, at 178-80, 200-01, 225-26 (2024) (minimizing construction impacts to community); NSTAR Electric Company d/b/a Eversource Energy, EFSB 14-04A/D.P.U. 14-153A/14-154A, at 99-100 (2021) (requiring CBA to mitigate impacts of the project and to further increase environmental and energy benefits); NSTAR Electric Company d/b/a Eversource Energy, EFSB 17-02/D.P.U. 17-82/17-83, at 4-5, 156-65 (2019) (developing segment of Mass Central Rail Trail); NSTAR Electric Company d/b/a Eversource Energy, EFSB 14-02/D.P.U. 14-73/14-74, at 4-5 (2017) (noting the Company's agreements with abutting property owner and host community, including architectural screening and landscaping).

The Companies incorporate community input and technological advances into the design of their projects and the Siting Board's existing process carefully considers such environmental impacts and mitigation on a case-by-case basis, as has been repeatedly upheld by the Supreme Judicial Court. See, e.g., Conservation Law Found. v. Energy Facilities Siting Bd., 494 Mass. at 603; GreenRoots, Inc. v. Energy Facilities Siting Bd., 490 Mass. at 754; Town of Sudbury v. Energy Facilities Siting Bd., 487 Mass. at 754. Thus, the current review process already recognizes the specific attributes of particular projects, social benefits provided by a reliable energy supply, and the positive effect of adding necessary infrastructure to interconnect new clean energy

resources. These important benefits must continue to be recognized as part of the Siting Board's review and not be used in advance of that review to predetermine locations for T&D infrastructure.

5. Is the proposal to use riverine and sea level rise exposure scores to assess climate resilience, focusing on flooding risks the right way to assess climate resilience?

a. Should other climate risks be considered?

b. Do different types of energy infrastructure face different risks?

c. Additionally, should EEA consider not just climate risks the energy facility may face, but also how the facility may exacerbate climate impacts in the surrounding area?

In general, the Companies support the use of riverine and sea level rise exposure as means to assess climate resilience, but note that all of their projects are designed to meet stringent industry standards and withstand such conditions at each specific location. See, e.g., NSTAR Electric Company d/b/a Eversource Energy, EFSB 22-03/D.P.U. 22-21 (Greater Cambridge Energy Program), at 126 (designing underground substation facilities with extensive flood resistant features); New England Power Company d/b/a/ National Grid, EFSB 19-04/D.P.U. 19-77/19-78 (Beverly-Salem), at 45, 67 (2021) (retrofitting existing substations to address flood hazards related to 100-year flood elevations); NSTAR Electric Company, D.P.U. 13-177/13-178 (Seafood Way), at 3 (2015) (elevating substation equipment located in coastal area). More generally, the Siting Board should make use of its existing precedent and conditions to address climate resilience for the majority of clean T&D projects that do not require a newly-established ROW. Underground T&D facilities are designed to regularly withstand flooding and inundation and should be reviewed differently from above-ground infrastructure.

To facilitate such reviews, the Companies suggest adoption of MEPA Interim Protocol on Climate Change Adaptation and Resiliency, which was issued in 2021 and addresses many of the same topics referenced in the 2024 Climate Act. This is a policy that has had significant

stakeholder review and input, evolving over time for application in the Commonwealth. Because issues related to climate resiliency are complex, data driven, and specific to the location and technology proposed, the Companies recommend additional stakeholder processes to ensure that flexible and robust requirements on this issue are reasonably developed.

6. The site suitability methodology is required to consider "development potential" by law and grid alignment is proposed as the metric for considering development potential for generation and storage projects. Is this the right way to evaluate development potential for these types of projects?

a. For transmission and distribution projects, could development potential be considered by measuring the amount of load projected for that area in the future by the ESMP load projections or EEA's planned building electrification load projection analysis, and/or by overlap with designated areas of development as defined by Chapter 40R (Smart Growth zoning), the MBTA Communities Act, or other already designated areas?

As discussed above, the Companies believe that site suitability criteria should be used to evaluate the physical characteristics of possible sites against key priorities of the Commonwealth and to identify tradeoffs between such priorities. In the context of a clean T&D project that requires a newly established ROW, "development potential" could be assessed based on long-term land use considerations, e.g., the ability of a newly established ROW both to support the project and to provide space for future infrastructure. It could also include consideration of existing land use plans along the proposed ROW, perhaps including Smart Growth zoning and/or the MBTA Communities Act. A working group process and technical sessions could provide an opportunity to discuss the usefulness of various metrics.

The Companies do not support using projections of ESMP or electrification loads as a metric for the "development potential" of potential ROWs for several reasons. First, these forecasts are snapshots in time and would not reflect the most up-to-date information on transmission or distribution system needs. Second, a new linear facility designed to deliver power

from a clean energy resource to a growing electrification load would likely need to cross areas that are not identified in these reports. Finally, pursuant to the 2024 Climate Act, the Siting Board will evaluate the specific need case presented by an applicant to ensure that proposed facilities meet an identified need. Depending on the project need, this analysis could include, but will not be limited to, evaluation of anticipated load growth associated with ESMP facilities, building and transportation electrification, or other Commonwealth initiatives. Given the Siting Board's vast expertise in the complex areas of transmission and distribution planning, consideration of this issue as part of EEA's site selection criteria is not necessary.

7. How should the site suitability methodology be integrated with the cumulative impacts analysis proposal(s) that will be proposed by OEJE and the EFSB? If yes, please provide specific recommendations on how this may be best achieved.

As indicated previously, the Companies recommend that OEJE and the Siting Board clearly distinguish the scope and purpose of the site suitability criteria and cumulative impact analysis. The current proposals for site suitability, CIA, and the Siting Board's required route selection review process contain an unnecessary degree of overlap that will undermine the effectiveness of each of the processes, ultimately creating a longer, more complicated, and less efficient permitting process for clean energy infrastructure. By definition, consideration of site suitability criteria, where applicable, should occur early in a project's development. In contrast, the CIA is to be developed for inclusion as part of the Companies' application to the Siting Board once a project site or route has been identified, to provide context for the evaluation of a project's impacts on the host communities. The Siting Board's site and route selection review should consider both the site suitability criteria (where applicable) and the results of the CIA, together with the many engineering, environmental, and cost considerations that lead to the choice of a specific project

location or route. Each component of the process occurs at different times in a project's development and should be treated as independent components of the application.

Unique Infrastructure Types

8. How should this framework consider the suitability of where undersea transmission cables are sited? Note that this framework applies only to projects under state jurisdiction, which includes the portions of undersea transmission cables in state waters (i.e., 3 nautical miles or less from the shoreline)?

There are several relevant considerations here. First, there are already a variety of undersea cables that transmit electricity to different parts of the Commonwealth (e.g., from Cape Cod to Martha's Vineyard and Nantucket). Many of these are not associated with an offshore wind facility. Regardless, there needs to be recognition of the caselaw that exists defining the limits of state authority over the permitting of infrastructure facilities to the Commonwealth's three-mile seaward jurisdiction. See, e.g., All. to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd., 457 Mass. 663, 666 (2010). Thus, any regulations or guidance on this point should clearly delineate the determinative transition point for the consideration of site suitability, taking into account the purpose of the submarine cable. At the same time, the Siting Board should act consistently with how other agencies, such as DEP, have historically applied their authority for undersea utility infrastructure pursuant to Chapter 91, wetlands permitting, and other state programs to review and authorize such facilities. The Siting Board's existing scoring criteria (for both the natural and human environments) sufficiently account for issues associated with submarine cables and should continue to be applied in a uniform and consistent manner.

9. Should this methodology be applied differently to linear infrastructure (e.g., transmission lines and distribution feeders) as opposed to non-linear infrastructure (e.g., generation facilities, energy storage, and substations)? If so, please provide specific examples of how these types of facilities should be evaluated differently.

Yes, for all of the reasons stated above, linear infrastructure (i.e., clean T&D facilities) is inherently different from non-linear facilities and typically will not be subject to EEA's site suitability criteria.

Site Suitability Scoring

10. What weights should be assigned to each criteria for the purposes of scoring?

The Companies oppose the development of predetermined, fixed weights for criteria for the purposes of scoring because every project and community have unique characteristics that should be considered on a project-specific basis. This is not an area where one size fits all. As stated previously, the Siting Board has substantial precedent, affirmed on multiple occasions by the Supreme Judicial Court, supporting its discretion to allow flexible scoring considerations and to make findings on a case-by-case and project-by-project basis. See, e.g., Johnson v. Energy Facilities Siting Bd., 495 Mass. at 205; Conservation Law Found. v. Energy Facilities Siting Bd., 494 Mass. at 603; GreenRoots, Inc. v. Energy Facilities Siting Bd., 490 Mass. at 754; Town of Sudbury v. Energy Facilities Siting Bd., 487 Mass. at 754; City of Brockton v. Energy Facilities Siting Bd., 469 Mass. 196, 213 (2014).

11. Should the site suitability methodology include "ineligible areas," with the ability for utility infrastructure to apply for a waiver?

a. Are the potential ineligible categories proposed appropriate?

b. Should any of these land categories be implemented into the site suitability methodology as criteria rather than as ineligible areas?

c. Are there other categories of land we should consider as "ineligible areas?"

No. For all the reasons stated above, the Companies strongly believe that designating "ineligible areas" is not appropriate or consistent with the historical siting of necessary energy infrastructure in Massachusetts.

12. Which data sources and metrics should be used for scoring each criterion?

Data sources and metrics are continually evolving and changing, based on technological advances. The Companies believe that specific data sources and metrics used to evaluate sites should be selected, applied, and explained by applicants in their Siting Board applications. Through agency caselaw over time, data sources and metrics can evolve to meet the changing industries and environments.

13. Should any of the criteria scoring metrics vary for different types of energy infrastructure? If so, how?

Yes, as explained above, linear infrastructure is fundamentally different from non-linear development. With respect to clean T&D in newly established ROWs, the Companies recommend the use of general preferences rather than a pre-established weighted scoring system.

14. How should project footprint, or the boundaries of a project's footprint, be measured?

a. Should the definition of project footprint vary for different types of energy infrastructure, or for different site suitability criteria?

Because each project and host community is unique, EEA's site suitability process must be adaptable to all of the clean energy facilities subject to permitting under the 2024 Climate Act.

Thus, the Companies caution against defining terms and criteria rigidly and in a manner that would limit the discretion of the Siting Board to craft decisions and conditions in a manner to implement the intent of the Legislature.

Guidance

15. What kinds of requirements or permit conditions should a permitting agency be able to institute based on a project's site suitability score to ensure project developers avoid, minimize, and/or mitigate environmental impacts?

Again, the Companies caution against the rote calculation of scores and application of requirements. The Companies favor a more flexible framework, mindful of the considerable expertise and discretion of the Siting Board that will further the efficient permitting of all types of clean energy infrastructure under the 2024 Climate Act.

Mitigation Fees

16. If they are ultimately implemented, what should be the minimum and maximum levels of mitigation fees to discourage siting in less suitable areas while not being excessive?

As indicated above, the implementation of mitigation fees requires additional legislative authority and process to ensure that the views of all stakeholders are appropriately considered. Regardless, the Companies do not view mitigation fees as applicable or appropriate to utility clean energy infrastructure projects for the reasons previously stated. Beyond that, further consideration of such fees is premature at this time.

17. What kinds of projects should mitigation fee funds be used for?

a. Should they be used for general conservation and resilience projects throughout the state, or for host community-specific mitigation projects?

b. How should community benefits agreements interact with mitigation fees?

For all the reasons discussed previously, the Companies oppose the implementation of mitigation fees associated with site suitability criteria and believe the application of such fees to

public utility infrastructure projects is inconsistent with the 2024 Climate Act.[13] It would also exacerbate important affordability considerations because it is duplicative of the Companies' extensive measures to mitigate project impacts for the benefit of the communities they serve and it would result in an added cost, beyond the mitigation itself, that would need to be recovered from customers.

[13] The Companies defer to the developers of solar and battery storage projects regarding the efficacy of potential mitigation fees on their projects.

IV. CIA GUIDANCE

A. General Comments on the CIA Presentations

1. EEA and the Siting Board Should Not Reinvent the Wheel.

At the May 5, 2025, stakeholder session, two presentations regarding CIAs were presented – one from EEA's OEJE and one by Siting Board staff. Section 53 of the 2024 Climate Act is straightforward and defines a "cumulative impact analysis" as follows:[14]

> a written report produced by the applicant assessing impacts and burdens, including but not limited to any existing environmental burden and public health consequences impacting a specific geographical area in which a [facility] is proposed from any prior or current private, industrial, commercial, state or municipal operation or project; provided, that if the analysis indicates that such a geographical area is subject to an existing unfair or inequitable environmental burden or related health consequence, the analysis shall identify any: (i) environmental and public health impact from the proposed project that would likely result in a disproportionate adverse effect on such geographical area; (ii) potential impact or consequence from the proposed project that would increase or reduce the effects of climate change on such geographical area; and (iii) proposed potential remedial actions to address any disproportionate adverse impacts to the environment, public health and climate resilience of such geographical area that may be attributable to the proposed project.

The plain language of the statute is explicit and unambiguous that the focus of the CIA is on the impacts "from the proposed project" and that any remedial actions are to be directed to addressing impacts "attributable to the proposed project."

To flesh out the scope of a practical and workable CIA in Massachusetts, the proposed guidance calls for use of a tool "similar to California's *CalEnviroScreen*," which is described as a "standardized resource to identify baseline conditions, highlight disadvantaged communities, and

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[14] This analysis "shall be developed in accordance with guidance established by" OEJE and regulations established by the Siting Board. St. 2024, c. 239, § 53. The statutory language in the 2024 Climate Act is substantially similar to comparable language from Section 58 of Chapter 8 of the Acts of 2021, *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* ("2021 Climate Act"), which modified the MEPA requirements in G.L. c. 30, § 62B regarding the scope and content of environmental impact reports.

support consistent evaluation across projects and geographies." Stakeholder Session #4 Slide 38 (EEA CIA Presentation). Established first in 2013, California adopted its fourth and most recent update to the tool in 2021. Notably, the most recent updates to the *CalEnviroScreen* tool were adopted after a multi-month public process that included a webinar and ***six public workshops*** on the draft revisions during which stakeholders could provide input. (https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40).

Given the complexity of the tool and the importance of its application to future siting in Massachusetts, the Companies believe that it is imperative that EEA and the Siting Board host at least as many workshops and working sessions as were held in California to develop the CIA tool for use in Massachusetts. To create a meaningful, practicable, and workable CIA tool in Massachusetts that helps facilitate (rather than impedes) the goals of the 2024 Climate Act, more time and input from a variety of stakeholders is required.[15]

Crucially, and as the Siting Board recognizes, Massachusetts already has myriad data sources available (see Stakeholder Session #4 Slides 63, 65-66) that need to be incorporated and integrated into the Massachusetts tool. There is no need to reinvent the wheel. Specifically, the Companies suggest that the Siting Board use existing Massachusetts tools such as the EEA Resilient MA Action Team's ("RMAT") Climate Resilience Design Standards Tool, the Massachusetts Department of Public Health ("DPH") Environmental Justice tool, and the various measures established pursuant to the MEPA Protocol for Analysis of Impacts on Environmental

[15] With respect to timing, Eversource and National Grid each have experience with the acquisition and development of complex software and have significant doubts that Massachusetts could contract for design, build, test, and fully implement such a system for use by project applicants in a timely way prior to July 1, 2026. An interim CIA framework is therefore needed to support Siting Board review for projects being developed now, as well as in 2026, and perhaps even later, depending on how long it takes to create a workable tool.

Justice Populations established pursuant to the 2021 Climate Act. [16] The Companies already use these tools and suggest they continue to be used until an integrated tool similar to *CalEnviroScreen* can be designed, built, tested, and implemented with continued involvement of stakeholders. The Companies also suggest that, at the initial stages, the CIA should focus on air emissions and air quality in the same manner as DEP has done in developing its regulations to address CIA mandates pursuant to the 2021 Climate Act. See 310 C.M.R. 7.00 et seq.

2. The Companies Have Specific Concerns with the CIA Proposal.

The Companies also have several concerns with respect to the Siting Board's proposed treatment of CIA. First, the CIA presentations contemplate a fully-developed CIA for every project, regardless of the scale and scope of impacts. For many projects, particularly those of small scope and scale, this would be an unnecessary, time-consuming, and costly undertaking. Further, it mandates the use of a wide array of indicators – spanning public health, socioeconomic, environmental, and climate-related factors – often at a granular (census block group) level. Project proponents are expected to gather baseline data, consult with communities, and use specialized tools. This level of analysis demands substantial technical expertise, time, and financial resources. The need to integrate both quantitative and qualitative data, and to update analyses as new data or community input emerges increases the resource burden and significant time delays.[17] All of this will affect affordability and may be prohibitive for smaller developers, which would chill the

[16] The Companies note that these types of analyses have historically reached the conclusion that electric transmission lines do not contribute to the incidence of childhood asthma, lead poisoning, or heart attacks.

[17] The CIA proposals include direction to incorporate "qualitative data" based on "testimonies" and "narratives" from the community. This approach presupposes: (i) a willingness on the part of local residents to provide actual "data" and constructive input on a host of issues, including topics such as public health; and (ii) that such "data" actually represents the community sentiment with respect to the development of clean energy infrastructure. Any final CIA regulations should require only that the Companies pursue and consider this type of information in good faith and not require applicants to take any particular action with respect to such information.

development of clean energy resources in Massachusetts, contrary to the goals of the 2024 Climate Act. Instead, the Siting Board should adopt a more tiered and phased CIA approach, tailored to a given project's size, location, and potential for impacts. Small or low-impact projects may require only a basic assessment, while large or novel projects may undergo a more comprehensive analysis. Such a tiered approach to CIAs, reflective of different types of infrastructure having different impacts, is consistent with the language in the 2024 Climate Act, which states CIAs (and other application requirements) are to be included "in such form and detail as the [Siting Board] shall from time to time prescribe." St. 2024, c. 239, § 74. This language delegates to the Siting Board the discretion to exercise its judgment in developing rules regarding the "form and detail" that will apply for CIAs for the different types of projects that are subject to its review.

Second, the 2024 Climate Act contemplates an assessment of "unfair or inequitable" burdens and "disproportionate" adverse impacts to a "specific geographical area" ("SGA") without providing definitions of those terms. The Siting Board staff, in turn, suggest defining an SGA as an "unfairly burdened area" ("UBA"), by census block, without any concrete proposal for how UBAs would be identified and defined. Stakeholder Session #4 Slide 59. In so doing, staff are suggesting a new geographical classification, which the Companies anticipate will inevitably be confused with the already-established definitions and understandings regarding EJ populations. Any definition of a UBA should be based on readily available existing data sources such as census blocks, and terms such as "unfairly burdened" (as well as "inequitable" or "disproportionate" impacts) must be more specifically delineated through additional stakeholder input.[18] As the

[18] The Companies suggest that the Siting Board adopt a "burden" and "disproportionate adverse impact" threshold that is consistent with current MEPA standards. As noted by the Siting Board (slide 59), with respect to unfair or inequitable burdens, the MEPA Office sets a threshold at 110% of statewide average for DPH indicators, and other indicators are compared to statewide averages without a particular threshold value. To assess disproportionate adverse impacts, the MEPA Office uses a "material exacerbation" standard. The Companies support the continued use of these standards.

Companies have emphasized previously, utility T&D infrastructure exists throughout the Commonwealth. The Companies recognize that some communities bear unfair or inequitable burdens; however, such burdens are typically not caused by utility T&D projects given their ubiquitous nature, modest impacts, and the fact that such projects do not adversely impact air or water quality, hazardous waste, or other pollution and public health concerns.

Third, the CIA presentations propose that project applicants such as the Companies analyze "reasonably foreseeable actions" of future projects and "likely future projects" in an SGA. Stakeholder Session #4 Slides 42-43, 57. This requirement is problematic because it goes well beyond the plain language of the 2024 Climate Act, which requires an assessment only of "existing environmental burden and public health consequences" in an SGA. St. 2024, c. 239, § 53. Even then, if such existing burdens and consequences are identified, the analysis is limited to impacts "from the proposed project" and mitigation proposals are expressly limited to addressing impacts "attributable to the proposed project." Id. Project proponents are not responsible for, have no control over, and cannot reasonably be expected to have detailed knowledge of the timing or impacts of other "likely" projects. This notion should therefore be removed from any CIA tool used in Massachusetts.

B. Specific Responses to Questions

The Siting Board asked a series of questions on its CIA proposal as part of its presentation (see Stakeholder Session #4 Slide 75). The Companies' responses to the specific questions are set forth below:

1. What indicators do you recommend including in the CIA model?

Whatever indicators are included, the state should develop the model and clearly define UBAs so that the first step of the process of determining whether "a geographical area is subject

to an existing unfair or inequitable environmental burden or related health consequence" pursuant to Section 53 of the 2024 Climate Act is objective and complete.

2. What weights should be assigned to each indicator for the purposes of scoring?

Scoring is inconsistent with the legislative definition of the CIA and the separate treatment of CIA and site suitability analysis. Notions of scoring as part of a CIA should be eliminated. The CIA should be completed for the proposed project only. The CIA would then become a part of the evidentiary record before the Siting Board, to be considered and weighed by the Siting Board, consistent with its broad discretion to implement its overall statutory mandate.

3. What do you think of the proposed distances of SGAs for energy facilities? Should they be broader or narrower or different for different project types?

The proposed distances of SGAs for clean T&D projects are excessive and do not reflect the limited and localized impacts of such projects. For example, a one-mile buffer is unwarranted for either a transmission line or a substation project, because no discernable impacts from those types of facilities are even remotely experienced at the specified distances. In the past, the Siting Board has used a typical notice buffer for a transmission line of 300 feet from the edge of the proposed right-of-way, and ¼-mile from the edge of a proposed substation property line. The SGA boundaries should be no larger than those established for standard notice buffers.

4. What do you think of the models proposed for Cumulative Impact Analysis?

Given the number of models referenced, the limited information provided on the models being considered, and the limited time provided for comment, it is difficult to provide specific input on the various models being considered. As a general matter, the Companies do not believe the 2024 Climate Act requires extensive modeling as a basis for the CIA. The statutory language

is functionally identical to that found in Section 58 of the 2021 Climate Act. Accordingly, the Companies recommend that the work put into the development of the MEPA EJ analysis should not be discarded but should be used for the CIA as well. To the extent that modeling is deemed necessary or appropriate, the Companies suggest that, pending the development of an integrated CIA model, the Siting Board rely upon existing Massachusetts tools such as the EEA RMAT Climate Resilience Design Standards Tool, the DPH EJ tool, and the various measures established pursuant to the MEPA Protocol for Analysis of Impacts on Environmental Justice Populations established pursuant to the 2021 Climate Act. The Companies are familiar with these tools and believe they would provide an appropriate foundation for CIAs until such time as a purpose-built tool can be developed with continued involvement of stakeholders. In addition, as stated above, given the complexity of developing a workable tool for CIAs, the Companies recommend that the CIA should initially focus on air impacts consistent with the approach DEP adopted pursuant to the 2021 Climate Act.

5. How should the EFSB best integrate EEA's Site Suitability criteria into its overall scoring process?

It should not. As discussed above, the site suitability criteria are being developed to guide developers in the selection of a site (or new ROW) consistent with specific policies of the Commonwealth. The CIA is an assessment of historic burdens designed to provide context for the mitigation of project impacts. However, the Siting Board's review of an applicant's site or route selection process must also take into account – and balance – the engineering, environmental, cost, and even property rights considerations that constrain the selection of a site or route for a specific project. The Siting Board has the experience and expertise to undertake this balancing, on a case-by-case basis, based on the evidentiary record in a particular proceeding. Generic site suitability criteria should not supplant the agency's experience, expertise, and judgment.

V. CONCLUSION

The Companies appreciate the opportunity to participate in this important proceeding and submit these comments to raise significant concerns with the site suitability and cumulative impact analysis proposals as currently constituted. As previously noted, it is imperative that further working groups or technical sessions are conducted on these issues by EEA and the Siting Board. The Companies look forward to reviewing the comments of other interested stakeholders and continued participation in the remaining phases of the Siting Board's process, including any working group or technical sessions, to better formulate a fair and reasonable set of rules 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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