

**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 PROPOSALS FOR  
STANDARD CONDITIONS AND PROCEDURAL REGULATIONS**

**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 Energy Facilities Siting Board (the “Siting Board”), to propose regulations for comment in order to implement the new streamlined siting and permitting pathways for energy facilities in the Commonwealth. As part of this process, the Siting Board has issued various straw proposals identifying areas and topics for input and consideration, leading to the development of proposed rules. On March 28, 2025, a straw proposal was issued on the topic of standard conditions for permits issued pursuant to the 2024 Climate Act. On April 3, 2025, the Siting Board issued a further straw proposal on the development of updated procedural regulations to govern its review processes. To gather comments on these proposals, the Siting Board hosted a stakeholder session on April 10, 2024, covering the topics of standard conditions and procedural regulations. The Siting Board requested written comments from stakeholders on these two straw proposals by April 24, 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”), hereby submit these written comments responding to the Siting Board’s straw proposals and stakeholder session on the topics of standard conditions and procedural regulations.

## **II. DISCUSSION**

### **A. General Comments on Standard Conditions**

The Companies commend and support the Siting Board's rulemaking process to implement the sweeping and vital changes to the permitting of critical electrical infrastructure in the Commonwealth. The Companies agree that the overriding purpose of the 2024 Climate Act is to streamline – not to complicate – the review of necessary energy projects that are in the public interest to achieve the state's aggressive climate change goals. The Companies look forward to working with all stakeholders and the Siting Board staff throughout the implementation of the 2024 Climate Act. The Siting Board's March 28<sup>th</sup> straw proposal described and provided examples of standard conditions for permits issued pursuant to the 2024 Climate Act. The Companies believe that it is critical to keep in mind that not all projects will have substantial impacts to the natural or human environment and that each project is highly fact, technology and location specific. Thus, it is important to maintain flexibility in the process and for the Siting Board to focus on the essential functions and requirements of each agency that would otherwise be involved in the permitting of particular projects.

### **B. Response to Straw Proposal Questions on Standard Conditions**

The Siting Board's straw proposal on standard conditions sets forth three categories of standard conditions: (1) universal conditions applicable to all decisions and constructive approvals; (2) additional conditions applicable to constructive approvals; and (3) additional conditions addressing specific technologies. Importantly, all such conditions must be applicable in a manner that meets the Siting Board's statutory mandate, as well as the purpose of the 2024 Climate Act to streamline the siting of new clean energy infrastructure. Such conditions must also be crafted with input from other permitting agencies and in a manner that ensures these conditions reflect those agencies' permitting responsibilities, are consistent with their specialized expertise and

requirements, and can be reasonably enforced. The straw proposal indicates that the set of standard conditions proposed by the Siting Board staff is not a comprehensive list and that other conditions will be added. The Companies request that all proposed standard conditions be identified prior to being included in draft rules and that an additional opportunity to comment be provided. Existing general permits and similar permitting documents can be used as baselines for such universal conditions and, in some cases, a specific condition may be universal in the sense that it works for all types of facilities, in all locations, for both adjudicated and constructive approvals. To that end, technical sessions or working group meetings would be helpful to refine the language of specific conditions.

As an overarching matter, the Companies suggest that the rulemaking's primary focus should be on universal conditions created for each category of Clean Energy Infrastructure Facility ("CEIF"), starting with the existing general permits required for each type of infrastructure facility.<sup>1</sup> Moreover, the Companies also recommend that the Siting Board employ guidance documents in certain instances rather than regulations to allow for flexibility over time as experience with the new siting paradigm evolves. Lastly, certain proposed conditions may be more appropriately included as requirements to include within the application itself.

As part of the straw proposal, the Siting Board asks a series of questions on the standard conditions proposed to elucidate these issues; the Companies' responses are set forth below:

**1. [To permitting agencies:] What Universal Standard Conditions (Level 1) does your agency recommend for inclusion in future consolidated Siting Board permits to reflect essential functions and requirements of your agency?**

The Companies recognize that this question is directed primarily to permitting agencies; however, the Companies want to express their general support for the Siting Board's adoption of

---

<sup>1</sup> This would include conditions for battery energy storage systems ("BESS"), small and large clean energy generation facilities, and both small and large transmission and distribution infrastructure facilities.

the three kinds of standard conditions: universal conditions, constructive approval conditions, and technology-specific conditions. Nevertheless, the Companies note the potential for overlap between universal conditions, constructive approval conditions, and technology-specific conditions. Many of the conditions classified as universal or constructive approval conditions in the straw proposal may more properly belong as part of the technology-specific conditions – or may have technology-specific variants based upon the type of facility under review (e.g., one version for transmission lines, one for substations, one for generators, etc.).

It is anticipated that any constructive approvals under the 2024 Climate Act will be the exception, not the rule. Indeed, in most cases, the Siting Board’s thorough discovery, review and approval process will be the operative mechanism for implementing the Commonwealth’s new, streamlined process for energy facility siting. As noted above, the Companies suggest that the rulemaking’s primary focus should be on universal conditions created for each category of CEIF, starting with the existing general permits required for each type of infrastructure facility. Permitting agencies, experts in their subject matters, in many cases already have existing conditions, standard requirements and tried-and-true approaches that may be adopted in the Siting Board’s process. Wherever possible, the Companies recommend that the Siting Board’s new regulations refer to existing, underlying regulatory language and already defined terms rather than introducing new terminology or requirements. To ensure such consistency, the Companies suggest the development of a state agency task force, made up of the agencies that would be participating in and providing comments on the Siting Board’s implementation and enforcement of the 2024 Climate Act, including the development and evolution of universal conditions. This would allow such agencies an ongoing opportunity to provide feedback and updates on the Siting Board’s actions with regard to the subject matter of each agency permitting authority.

**2. [To permitting agencies:] What Constructive Approval Conditions (Level 2) does your agency recommend for inclusion in future EFSB consolidated permits by constructive approval to reflect essential functions and requirements of your agency?**

As noted above, constructive approvals are not anticipated to be regularly issued and once all of the standard conditions are made available for comment, the Companies will be able to better identify which such conditions should be applicable to constructive approvals.

**3. [To permitting agencies:] Which, if any, of your agency's permits should be exempt from being included in future consolidated Siting Board permits, and what is the statutory or practical basis for such exclusion?**

The plain language of the 2024 Climate Act makes clear that a “consolidated permit” includes “all municipal, regional and state permits that the large or small clean energy infrastructure facility would otherwise need to obtain individually, with the exception of certain federal permits that are delegated to specific state agencies as determined by the [Siting Board].” St. 2024, c. 239, § 52. Thus, the Companies do not believe that the 2024 Climate Act authorizes any state or local permits to be exempt from the Siting Board’s consolidated review other than certain federal permits for which authority is specifically delegated to state agencies. For those federal permits that are delegated to state agencies, the Companies urge the Siting Board to coordinate with those agencies to ensure that the receipt of all permits does not cause undue delay.

**4. [To permitting agencies:] How would you propose that the Siting Board consider an agency's project-specific Statement of Recommended Conditions in the event of a constructive approval?**

The Companies believe that any agency’s project-specific requests with regard to a particular project would be part of that agency’s participation in the Siting Board proceeding during the review of the project application and be made part of the evidentiary record for review and comment by all parties. Nonetheless, in the event of a constructive approval, any such approval should revert to the standard conditions developed for constructive approvals because, as

a general matter, the standard conditions should already reflect relevant agency input.

**5. Should the standard permit conditions be fixed or should they provide a reasonable range of options, where applicable?**

The standard conditions should provide a reasonable range of options. Moreover, as stated above, the Companies request the opportunity to review and comment on all standard permit conditions as part of this rulemaking process. However, consistent with the Companies' proposed revisions to the standard conditions provided below, the Companies believe that such conditions should, and can, be crafted in a manner that provides reasonable flexibility to facilitate appropriate revisions as more experience is gained in the process. To that end, the Companies recommend the use of guidance rather than regulations to the extent possible so that further rulemaking is not necessary in order to facilitate additions or modifications to the standard conditions over time. It is also possible to use the case-by-case experience from project reviews to supplement the appropriate set of standard conditions.

**C. Specific Edits to Standard Conditions**

As part of the Siting Board's straw proposal on standard conditions, several example conditions were provided for review and comment. Where applicable, the Companies propose specific language modifications in redlined form to the conditions set forth in the straw proposal, with explanations, as follows:

Level 1 Universal Standard Conditions		
Topic	Proposed Language with Redlining	Commentary
<b>Project Commencement Project Change</b>	Because issues addressed in this Decision relative to the Project are subject to change over time, construction of the proposed Project must commence within three years of the date of the Decision, <u>subject to reasonable extension by the Siting Board at the request of the</u>	Suggested language allows flexibility at the Siting Board's discretion to account for potential delays because of appeals, global market instability, and other events that could delay the construction of approved facilities.

Level 1 Universal Standard Conditions		
Topic	Proposed Language with Redlining	Commentary
	<u>applicant for good cause</u> . In addition, the Siting Board notes that the findings in this Decision are based upon the record in this case. A project proponent has an absolute obligation to construct and operate its facility in conformance with all aspects of its Project as presented to the Siting Board. Therefore, the Siting Board requires the Company, and its successors in interest, to notify the Siting Board of any changes other than minor variations to the proposal so that the Siting Board may decide whether to inquire further into a particular issue. The Company and its successors in interest are obligated to provide the Siting Board with sufficient information on changes to the proposed Project to enable the Siting Board to make these determinations.	
Compliance with Regulations	The Siting Board directs the Company to comply with all applicable federal, state, and local laws, regulations, and ordinances from which the Company has not received an exemption. The Company shall be responsible for ensuring such compliance by its contractors, subcontractors, or other agents.	No suggested edits.
Compliance with All Conditions	The Company and its successors in interest shall comply with all conditions contained in this Decision. Further, the Siting Board directs the Company, within 90 days of Project completion, to submit a report to the Siting Board documenting compliance with all conditions contained in this Decision, noting any outstanding conditions yet to be satisfied and the expected date and status of compliance.	No suggested edits.
Updated/ Certified Cost Estimate	The Company shall submit to the Siting Board prior to the start of construction, an updated and certified cost estimate for the Project. The Company shall also promptly notify the Siting Board <u>during the construction process</u> of <del>significant</del> Project cost increases beyond the <u>numerical</u> ranges referenced in this Decision <u>when known.</u> <del>pursuant to the Company's</del>	Because many sources of cost increases are outside of the Companies' control and not immediately known until completion of invoicing following construction, a more accurate cost filing requirement would be available at the end of the construction period. However, maintaining the requirement

Level 1 Universal Standard Conditions		
Topic	Proposed Language with Redlining	Commentary
	<del>obligation to notify the Siting Board of any changes other than minor variations to the proposal.</del>	to provide cost differentials outside of the scope of the record at any time ensures the Siting Board is timely notified of unpredicted changes. Suggest removing the word “significant” because it implies something outside of the differential would not trigger reporting requirements. Also recommend deleting language that links cost increases to project changes because most cost increases are not a result of a change in the project.
<b>Diesel Vehicle Regulation Compliance</b>	The Siting Board directs the Company to ensure that all diesel-powered non-road construction equipment with engine horsepower ratings of 50 and above, and to be used for 30 or more days over the course of Project construction, be certified to the most recent U.S. EPA Tier emissions standards or have U.S. EPA-verified (or equivalent) emissions control devices, such as oxidation catalysts, particulate filters, or other comparable technologies (to the extent that they are commercially available) installed on the exhaust system side of the diesel combustion engine.	No suggested edits.
<b>Conversion to Electric Vehicles</b>	The Siting Board directs the Company to consider potential opportunities for use of, or conversion to, electric vehicles and electric equipment for construction activities, and to submit a report to the Siting Board indicating the Company’s inclusion of electric vehicles at the following times: 30 days prior to construction, <u>and after the first year of construction</u> <del>180 days after construction commencement, and 90 days after construction</del>	This condition reads like a constructive approval condition, as it appears to assume that the issue of electrical vehicle/equipment use has not been developed on the record. It would be more effective for the Siting Board to direct applicants to include plans for use of electric vehicles and equipment as appropriate in their applications and perhaps also in RFPs to construction



Level 1 Universal Standard Conditions		
Topic	Proposed Language with Redlining	Commentary
	<del>completion.</del>	contractors.
<b>Community Outreach Plan</b>	The Siting Board directs the Company to implement a community outreach plan for Project construction. The plan shall build off community engagement efforts begun during the pre-filing phase, and should detail the language access provided by the Company. The Company shall make the plan available to the community no later than <del>90</del> <u>30</u> days prior to commencement of construction, and shall list all groups of residents, businesses, officials, and other(s) with whom the Company will engage in community outreach. Further, the plan(s) shall specify procedures for providing prior notification to affected residents regarding: (a) the scheduled start, duration, and hours of construction; (b) construction methods specific to particular areas; (c) any construction the Company intends to conduct that, due to unusual circumstances and subject to field conditions as soon as they are known, must take place outside of the hours detailed above; and (d) any anticipated street closures or detours. Further, the plan(s) shall detail communication methods that the Company will employ in its engagement efforts.	The Companies anticipate submitting preliminary construction outreach plans as part of their permit applications; thus, the Companies recommend that the filing proposed here be made 30 days in advance of construction rather than 90 days so that it includes the most current and relevant information to the community prior to construction.
<b>Permitted Construction Work Hours</b>	The Company's normal construction work hours shall not begin before 7:00 a.m. and end not later than 7:00 p.m. Monday - Friday and not before 9:00 a.m. to 6:00 p.m. on Saturdays. Normal construction work hours shall not include Sundays or legal, state, or federal holidays. Should the Company need to extend construction work beyond the above-noted hours and days, with the exception of	The Companies generally support a constructive approval condition in this form with the recommendation that the Siting Board's involvement regarding work hours be limited to resolving conflicts about extended construction hours. This would avoid unnecessary filings and involvement of the Siting Board with ongoing municipal

Level 1 Universal Standard Conditions		
Topic	Proposed Language with Redlining	Commentary
	emergency circumstances on a given day necessitating extended hours, the Company shall seek written permission from the relevant municipal authority before the commencement of such work <del>and provide the Siting Board with a copy of such permission</del> . If the Company and municipal officials are not able to agree on whether such extended construction hours should occur, the Company may request prior authorization from the Siting Board and shall provide the relevant municipality with a copy of any such request. Work requiring a longer continuous duration than normal construction work hours is exempt from those hours. The Company shall promptly inform <del>the Siting Board and</del> [municipality/municipalities/others] of any emergency work occurring outside of normal construction work hours.	enforcement. <sup>2</sup>

Level 2 Constructive Approval Conditions		
Topic	Proposed Language with Redlining	Commentary
<b>Excavation/ Disposal of Contaminated Materials</b>	The Siting Board directs the Company to comply with all applicable federal and state laws concerning the excavation and disposal of any contaminated soils encountered during construction of the Project.	No suggested edits other than to note that this is likely redundant to the “Compliance with Regulations” condition above.
<b>SF6 Alternatives</b>	If sulfur hexafluoride (SF6) is proposed for	This should be considered a “technology specific” condition.

<sup>2</sup> The Companies note that the straw proposal anticipates that, upon issuance of an approval by the Siting Board, the enforcement of the final decision would be by the state or local agency that would otherwise have authority. Standard Conditions Staff Straw Proposal at 1. The Companies recommend that final enforcement authority reside with the Siting Board and that if there is a conflict between the Siting Board’s approval and the enforcement actions of a state or local agency, the applicant may seek relief from the Siting Board from any conflicting directives by a state or local agency. The same structure should also apply to a constructive approval.

Level 2 Constructive Approval Conditions		
Topic	Proposed Language with Redlining	Commentary
	equipment at the facility, for the lifetime of the facility, the Company shall investigate alternatives to using SF6 at the facility, and, whenever possible <u>and cost-justified</u> , employ such alternatives. Further, the Company shall inform the Siting Board if/when viable alternatives are identified.	
<b>Fire Suppression Foam/PFAS</b>	If foams are used for fire suppression at the facility, the Siting Board directs the Company to ensure that non-PFAS foams are employed to the extent that such products are commercially available, efficacious, and compliant with relevant requirements of 310 CMR 112. In addition, the Company shall provide to the Siting Board [within timeframe] a safety data sheet or other demonstration verifying that any foams of other fire-suppressing materials stored at the facility do not contain PFAS.	This should be considered a “technology specific” condition.
<b>Mitigation: Wetland Replacement</b>	If wetlands are permanently <u>altered</u> <del>filled</del> , the Siting Board directs the Company to <u>mitigate for permanent wetland fill through a means of 1:1 wetland replacement within the same Hydraulic Unit Code Subbasin watershed. Alternative mitigation may include wetland restoration, watershed land conservation, wetlands conservation, riverine restoration, stream-crossing replacement, or other similar mitigation proposals at the discretion of the applicant and subject to verification by MassDEP.<del>replace the permanently altered wetlands in-kind, proximate to the relevant waterbody, in an amount at least equal to the amount of the permanently altered wetlands, or as otherwise specified in MassDEP regulation</del></u>	The word “altered” is broad and could include minor changes; proposed changing to “filled.” Also, “proximate” is uncertain and may not be possible given geography and site-specific attributes; recommend using the watershed as the area for replacement consistent with current DEP requirements.
		Proposed language mirrors current DEP wetlands, WQC, ACOE requirements; Siting Board should maintain consistency with existing standards of other agencies whenever possible.
<b>Lighting Mitigation</b>	The Siting Board directs the Company to use lighting mitigation measures (e.g., turning off lights when not in use, motion detectors, dimmers, shielded light fixtures, warm-color bulbs).	This should be considered a “technology specific” condition.

Level 2 Constructive Approval Conditions		
Topic	Proposed Language with Redlining	Commentary
<b>Flood Mitigation &amp; Sea Level Rise</b>	The Siting Board directs that every five years from the date of facility operation the Company shall review municipal, state, and federal projections, as applicable, of sea level rise and submit a report to the Siting Board analyzing the necessity, appropriateness, and cost of implementing additional flood mitigation measures at the [facility] to protect the [facility] from inundation. In preparing each report the Company shall consult with agencies including, but not limited to, municipal officials, the Office of Coastal Zone Management, Massachusetts Emergency Management Agency, and the Department of Environmental Protection. The Siting Board will review each report and determine whether any of the additional flood mitigation measures are necessary and appropriate.	This condition should apply only to facilities that are located in areas that are susceptible to sea-level rise and, as such, should be considered on a project-level basis.
		In addition, the Companies note that Section 78 of the 2024 Climate Act establishes a requirement for the development of Climate Vulnerability Plans (“CVPs”) by utility companies every five years as part of their respective Electric Sector Modernization Plans (“ESMPs”). Any condition imposed by the Siting Board should be coordinated with those provisions to ensure consistent results and avoid unnecessary redundancy.
		The Companies believe that this condition would be an appropriate topic for future workshops.
<b>Emergency Response Plans (“ERPs”)</b>	The Siting Board directs the Company to develop an emergency response plan (“ERP”) that shall: (1) be developed in consultation with local public safety officials; and (2) require close coordination between the Company and first responders to ensure that first responders are fully informed about emergency events and understand how to address such events without assuming unnecessary personal risk. The ERP shall include: (1) equipment types and layouts without compromising Critical Energy/Electric Infrastructure Information; (2) safety data sheets	The Companies already have ERPs, which are filed with the DPU and, thus, propose that this condition apply only if the applicant does not already have an ERP on file and approved by the DPU. Also, as currently written, the condition would appear to be more appropriate to a BESS, or possibly a substation, rather than a linear facility like a transmission or distribution line.

Level 2 Constructive Approval Conditions		
Topic	Proposed Language with Redlining	Commentary
	for materials used or stored onsite; (3) a firefighting plan with suggested response procedures for various emergency conditions; and (4) the emergency response tasks that will be undertaken and completed by the operator of the facility/facilities.	

Level 3 Technology-Specific Conditions			
Topic	Technology/ Scenario	Proposed Language with Redlining	Commentary
Shore-to-Ship Electricity	Technology: Offshore Wind Transmission Lines	<u>For projects related to offshore wind transmission lines,</u> <del>the</del> the Siting Board directs the Company to: (i) use shore-to- ship electricity for vessels while they are moored, whenever feasible; (ii) evaluate the feasibility of supplying shore-to- ship electricity to near-shore vessels to minimize or eliminate the need for onboard engines to generate power from fossil fuels; and (iii) submit reports indicating the Company's ability to use shore-to-ship operations 30 days prior to construction, 180 days after construction commencement, and 90 days after construction completion.	The Siting Board should make clear that this proposed condition would apply only to offshore wind facilities.

Level 3 Technology-Specific Conditions			
Topic	Technology/ Scenario	Proposed Language with Redlining	Commentary
<b>Magnetic Field Testing</b>	Technology: Transmission Lines, Substation	The Siting Board directs the Company to conduct testing of magnetic fields [at location(s)], which shall occur: (i) at least 30 days prior to construction commencement to establish a baseline; <del>and (ii) 180 days after construction commencement; and (iii)</del> approximately 1 year from the commencement of facility <del>in-service date (or electrification)operations</del> . For each of the <del>three</del> <u>two</u> milestones listed above, the Company shall file with the Siting Board a report detailing: (i) the results of the magnetic field testing; (ii) whether the results are consistent with projected or anticipated magnetic field measurements; (iii) any remediation measures necessary to rectify inconsistencies; and (iv) whether such remediation measures (if required) are warranted.	<p>The Companies believe that such a condition is unnecessary given that EMF levels for utility projects are typically small fractions of internationally-recognized health-based standards set by the World Health Organization and the International Commission on Non-Ionizing Radiation Protection (“ICNIRP”). In addition, these type of EMF studies are expensive to produce and will produce little benefit to the Siting Board’s continuing oversight.</p> <p>Nonetheless, if the Siting Board elects to impose such a condition, the Companies suggest removing the (ii) testing requirement because it will yield the same results as (i) since any new transmission will not yet be in service. Time of year and system conditions for testing should be the similar for both the pre and post construction measurements; proposed edits to condition to allow flexibility in testing time. If seeking to identify potential maximum EMF levels, it may be appropriate for the time frames to be during expected peak loading conditions.</p>

#### **D. Comments on Procedural Regulations**

The Siting Board’s April 3<sup>rd</sup> straw proposal addresses the development of new procedural regulations to govern its review processes pursuant to the 2024 Climate Act. In general, the Companies strongly support procedural regulations that clarify the necessary outreach, notice and filing requirements to ensure that complete applications can be submitted and ruled upon in an expeditious manner.<sup>3</sup> However, the Companies are concerned that completeness determinations have the potential to significantly delay the permitting timelines in the 2024 Climate Act and therefore seek additional information and opportunity to comment in future straw proposal processes (such as on the “New Applications” and “Pre-filing Engagement” proposals). The Companies also suggest that any “good cause” finding required pursuant to G.L. c. 164, § 69V for a consolidated state and local permit from the Siting Board be combined with the “completeness determination” to ensure all threshold matters are addressed promptly and upfront, prior to the commencement of substantive inquiry.

Subject to the development of additional facts and details, the Companies are also in general agreement with: (1) the proposed requirements and distances for providing abutter notification of jurisdictional projects; (2) electronic streamlining of permitting to minimize administrative burdens; and (3) the continued use of hybrid hearings to ensure efficiency and maximize involvement of all interested entities. To promote ongoing consistency, the Companies encourage the Siting Board to take full advantage of the language in G.L. c. 164, § 69U(b)-(c): “The board shall establish timeframes and procedures for reviewing different types of small clean transmission and distribution infrastructure facilities based on the complexity of the facility....” By doing so, the Siting Board could create streamlined processes for reviewing small CEIF

---

<sup>3</sup> The Companies also support the elimination of old, outdated regulations that no longer apply to the Siting Board’s review process.

projects with limited impacts. Such procedural options could include stipulations, a limited scope of discovery, and the option to waive evidentiary hearings.

There are two additional matters not raised by the straw proposal that the Companies would like to address. First, the Companies note that historically it has been difficult to schedule Siting Board meetings because of the busy schedules and significant responsibilities of the Board members. With an increased number of Board members pursuant to the 2024 Climate Act and the expected increase in the volume of jurisdictional project reviews, the Companies suggest that regular, standing Siting Board meetings be scheduled on an ongoing basis (e.g., the first Wednesday of every month or perhaps twice a month) to ensure that there is a quorum available to decide upon applications on a timely basis and avoid unnecessary constructive approvals. Other states (including Connecticut, Michigan and Oregon) take similar approaches in varying fashions with successful results.<sup>4</sup>

Second, the Companies have many projects seeking approvals before the Siting Board pursuant to the laws in effect prior to the 2024 Climate Act. These projects are essential for the reliability of electric service to customers and the Companies seek to move these proceedings forward expeditiously. Thus, the Companies respectfully request formal guidance on how such pending projects will be processed during this rulemaking process and once the new permitting regime becomes effective in July 2026.

The Siting Board straw proposal on procedural regulations asked several specific questions. These are set forth below with the Companies' responses.

---

<sup>4</sup> If some of those pre-designated dates become unnecessary because there are no formal matters that are pending for the Board's review and approval, those dates can be canceled. As a practical matter, it is far easier to delete unnecessary meetings than it is to try to schedule necessary meeting dates on short notice.



- **Existing Siting Board regulations require newspaper notice of public comment hearings. Should the Siting Board eliminate the requirement for newspaper notice of public comment hearings? What type of notice would be more effective for these hearings?**

With regard to the Siting Board's inquiry about continuing newspaper notices, the Companies are interested in hearing from various stakeholder groups on this point but do not suggest reducing the means by which public notice is effected. While such newspaper notice may be less important than in the past, the Companies believe that more notice is preferable and do not recommend curtailing newspaper notice at this time.

- **Should Siting Board staff site visits to the location of a proposed project be open to the public? How would the Siting Board manage such a process?**

With regard to the Siting Board's inquiry regarding making site tours open to the public, the Companies do not believe that such a process is needed. First, the goal of a site visit is not to solicit public feedback, but rather to provide the Siting Board staff, who may not be familiar with the area, with the opportunity to review technical details in the field, and to observe a "real life" perspective of sites, routes, potential impacts, and surrounding land uses. The interested public and prospective intervenors most often already have local familiarity with the area and will have access to the filed documents, which should be a sufficient basis upon which to evaluate relevant issues. The public can provide feedback to the Siting Board through the ample channels provided through various components of the Siting Board's process, including oral remarks at public comment hearings, written comments subsequent to public comment hearings, and petitions for limited participant or intervenor status. Second, including the public on site tours would significantly increase the complexity of conducting and coordinating such scheduled events, potentially requiring interpretation and translation and ADA compatibility, which would make logistics extremely complicated, which in turn could increase timelines. Third, logistically, it

would be very difficult to provide public accommodations to areas with security and safety considerations (such as secure substation facilities) or along linear projects through multiple communities. The feasibility and liability implications of such an endeavor outweighs its potential benefits.

- **How should the Siting Board reflect decommissioning activities and expectations?**

With regard to the Siting Board’s inquiry about including decommissioning activities in its procedural regulations, the Companies are aware that this is a concern for certain technologies and believes, in those cases, decommissioning is best addressed through proper conditioning of the Siting Board’s decisions. However, decommissioning should not be considered universally required or applicable to every project. In most instances, electric transmission utility infrastructure is not “decommissioned” on a set timeline but instead is monitored and replaced in part or upgraded when necessary. To create universal decommissioning requirements that would be applied across technologies would create significant and unnecessary administrative burden to electric utilities and regulators, alike. Broad-based requirements for decommissioning for utility projects could also add significant cost, construction, and community impacts to a project without any material attendant benefit. Instead, the Companies believe it would be more appropriate for the Siting Board to consider decommissioning activities as a “technology specific” condition in its rulemaking process.

- **When local government, upon a showing that its resources, capacity and staffing do not allow for review of a small clean energy infrastructure facility’s permit application within the required maximum 12-month timeframe for local government review, could request a de novo adjudication from the Siting Board Director, should the Siting Board establish a 12-month schedule for review, consistent with the 12-month schedule allowed for review at the local level?**

The 2024 Climate Act specifically states, as codified in G.L. c. 25A, § 21(g):

If a local government lacks the resources, capacity or staffing to review a small clean energy infrastructure facility permit application within 12 months, it may, not later than 60 days after receipt of such application or at any time thereafter with the consent of the applicant, request in writing a de novo adjudication of such application by the director **pursuant to section 69W of chapter 164.**

(Emphasis added.) For its part, Section 69W(c) generally requires that the “director shall render a decision on the request within 6 months of receipt of the application and such decision shall be final.” Thus, the Companies believe the Director should follow the express terms of the statute and render any decision within 6 months of “receipt of the application.”

- **For de novo adjudications, should the Siting Board regulations provide for the opportunity for a motion for reconsideration by the Director of a de novo adjudication final decision?**

The Siting Board’s straw proposal also inquired about the application of motions for reconsideration to the Director’s review of de novo adjudications pursuant to G.L. c. 164, § 69W. The Companies note that Section 69W(c) specifically states that the: “director shall render a decision on the request within 6 months of receipt of the application and such decision shall be final.” (Emphasis added.) Thus, pursuant to the terms of the statute, the Companies believe that the Legislature intended a streamlined process without varying levels of administrative review and reconsideration. As is the case with a final decision issued by the Siting Board, a director’s decision on de novo review should be treated as final upon issuance, subject to judicial review pursuant to the provisions of G.L. c. 164, § 69P and G.L. c. 25, § 5. A procedure that includes motions for reconsideration is unnecessary and would only add to the length of permitting timelines.

- **Permitting procedures for energy facilities in other states include steps that limit the scope of subject matter that may be explored during adjudication and decided upon in the final permit. This limitation can increase efficiency for issuing permits. Should the Siting Board adopt such practices? What limiting practices should the Siting Board consider? Describe any legal impediments for the Siting Board to adopt similar practices.**

The Siting Board straw proposal also requests thoughts about limiting the “subject matter that may be explored during adjudication and decided upon in the final permit” indicating such a “limitation can increase efficiency for issuing permits.” The Companies agree and would be in favor of limiting the adjudication and permit findings required by the Siting Board to issues in dispute between or among the parties. For example, if no party challenges or questions the applicant’s showing of need for a CEIF in its initial filing through written comments or inquiry during discovery process, then the parties could agree that issue requires no significant investigation by the Siting Board. A process that eliminates unnecessary adjudication of undisputed matters would materially enhance the efficiency of the Siting Board review process.

### **III. CONCLUSION**

The Companies appreciate the opportunity to participate in this important proceeding and submit these comments and once again commend the Siting Board staff for its thoughtful and comprehensive set of initial straw proposals. The Companies look forward to reviewing the agencies’ proposed conditions and 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**

By their attorneys,

A handwritten signature in black ink, appearing to read "David S. Rosenzweig". The signature is fluid and cursive, with the first name "David" being more prominent.

---

David S. Rosenzweig, Esq.  
Erika J. Hafner, Esq.  
Michael J. Koehler, Esq.  
Keegan Werlin LLP  
One Cranberry Hill, Suite 304  
Lexington, MA 02421  
(617) 951-1400

Dated: April 24, 2025