

**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 THE APPLICATION STRAW
PROPOSAL**

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 clean energy facilities in the Commonwealth. As part of this process, the Siting Board has issued a straw proposal on the topic of new applications submitted pursuant to the 2024 Climate Act, identifying areas and topics for input and consideration, leading to the development of proposed rules. To gather comments on this proposal, the Siting Board hosted a stakeholder session on April 17, 2024, and requested written comments from stakeholders on May 1, 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 Siting Board’s application straw proposal.

II. DISCUSSION

A. General Comments on Applications

The Companies commend and support the Siting Board’s stakeholder process to implement the comprehensive permitting changes associated with the siting of clean energy infrastructure in

the Commonwealth. The Companies share the fundamental goal of the 2024 Climate Act, i.e., to streamline and expedite the review of clean energy facilities to achieve the state’s aggressive greenhouse gas reduction goals. The expected scope and content of the application is critically important because it establishes the baseline of what information must be submitted to initiate the Siting Board’s review and to facilitate its completeness determination. In turn, the completeness determination, once made, dictates the timeline for the duration of the Siting Board’s review process – up to 15 months for large clean infrastructure facilities pursuant to G.L. c. 164, § 69T(i), and not more than 12 months for small clean infrastructure facilities pursuant to G.L. c. 164, § 69U(c). With that in mind, with regard to applications for clean energy infrastructure facilities (“CEIF”), the Companies believe the primary objectives for this rulemaking should be to develop an application process that: (1) sets a clear and appropriate baseline of required information at the outset to facilitate a successful completeness determination within 30 days of filing; and (2) consistent with current practice, allows for flexibility in the process so that information can be supplemented progressively throughout the Siting Board’s proceedings to ensure the development of a complete record with the participation of all parties.

Importantly, the application process should anticipate that the Siting Board’s comprehensive review of jurisdictional projects, including discovery and evidentiary hearings, will lead to a level of detail in the final record of the proceeding that is not practical to provide in the application itself. To that end, the Siting Board’s suggestion of a checklist for the completeness determination would be extremely helpful in guiding applicants, avoiding delays, and maintaining the necessary order of the proceeding. Because ensuring the flexibility and responsiveness of the process will be essential to the ongoing and timely work of the Siting Board, the Companies encourage the Siting Board to issue general regulations outlining the base application requirements

and refine the specific minimum requirements by project type to fulfil the completeness determination through guidance documents that can be modified in a timely and efficient manner. Indeed, guidance documents to ensure clarity in the filing checklist and avoid ambiguity will be essential to ensuring an efficient review process.

Prior to the issuance of draft regulations, working groups and technical sessions should be pursued to develop the information necessary for application checklists, guidance documents and, ultimately, leading to the application requirements. For example, the Siting Board's straw proposal (at page 2) indicates that large CEIF applications should include "a description of the [large clean transmission and distribution] facility site and surrounding areas" (emphasis added). Having input from local and state agencies, organizations and applicants will help define what constitutes a "surrounding area" to ensure that the project proponents have considered the appropriate level of impacts associated with the facility. Similarly, the straw proposal (at page 12) also indicates it will require an applicant to show "whether the existing electric system meets reliability criteria under peak and emergency conditions over a forecast period" (emphasis added). Because the need for new facilities is not always forecast driven, a working group session to establish necessary asset condition replacements and interconnection-based needs would be helpful in clarifying this application requirement. Incorporating input from relevant state and local agencies, applicants, and stakeholders in a working group setting will allow the Siting Board to craft flexible and appropriate application requirements, ensuring the goals of the 2024 Climate Act are met.

B. Response to Application Straw Proposal Questions

The straw proposal provides an in-depth analysis of the two potential models for Siting Board applications, using either an "aggregation" or "purpose-built" model. While there are certainly benefits and complexities associated with each model, the Companies are confident that the appropriate, relevant information can be developed with either process and that the Siting

Board will evolve its review process in a manner that will incorporate the expertise of state and local agencies. As part of the straw proposal, the Siting Board asks a series of questions on the application requirements to elucidate these issues; the Companies' responses are set forth below:

1. Staff proposes to use the Aggregation Model for applications filed beginning in 2026 and consider whether to move to the Purpose-Built Model. Should the EFSSB plan to use the Aggregation Model in the long-term or move to developing the Purpose-Built Model? Why?

The Companies generally support using the aggregation model for the Siting Board's review of CEIF applications beginning in 2026 with an understanding that the Siting Board may update the initial application form over the coming years into a purpose-built application. The Companies each have experience working in states that use some variant of the aggregation model. As described in the straw proposal, the Siting Board's aggregation model application would include two basic parts: (1) a "broad scope" section that would mirror current Siting Board application filings (i.e., project description, need, project approach, site selection, environmental impacts, cost, consistency with applicable policies of the Commonwealth) as well as the 2024 Climate Act requirements (pre-filing community engagement, cumulative impacts analysis, and site suitability analysis); and (2) an "all other requirements" section that would first identify all other state, regional and local permits required and then systematically compile the application forms and associated information otherwise required for each such state, regional, or local permit agency.¹

The Companies agree that an aggregation model will be the most effective and request that the Siting Board consider a "best practices" approach for the "broad scope" part of the aggregation

¹ The straw proposal includes Appendix A, which is a listing of potential "state, regional, and local permits that staff anticipates the [the Siting Board] may include with its consolidated permits" (at page 18). The Companies note that the Massachusetts Bay Transportation Authority ("MBTA") license and the Massachusetts Department of Transportation Rail – Use and Occupancy Permit are also often required state authorizations that should be considered for inclusion in Appendix A.

approach that combines elements of the Siting Board’s application with the Massachusetts Environmental Policy Act’s (“MEPA”) Expanded Environmental Notification Form (“ENF”). This would produce a “broad scope” filing that effectively bridges the Siting Board-specific requirements and the other state and local permitting requirements, as follows:

- (1) **Common Narrative.** This would include the “broad scope” information necessary to meet Siting Board filing requirements along with any narrative information that is necessary to support individual permit application forms (see #3, below).
- (2) **Modified ENF.** Use the current ENF as the base and modify as needed to supply jurisdictional and quantitative information needed for a simple “one stop” document that provides the key information for state and local reviewing agencies. This would include a section identifying conflicting requirements between state and local permit standards.

The “all other requirements” portion of the permit application would include:

- (3) **Permit Applications.** Completed individual application forms for each necessary state and local permit listed. These would be the forms only – any supporting information would be provided in the common narrative and modified ENF with appropriate cross-references to avoid repetition.
- (4) **Supporting Documentation.** Data, maps, technical reports, studies, and other materials needed to support (1)-(3) along with a checklist with cross-references to show where the necessary information is located in parts (1) through (4).

This approach will benefit the Siting Board (by providing necessary information through a familiar format) while also fostering effective review by state and local agencies using forms they are accustomed to seeing (i.e., the ENF and permit applications). By integrating components of the ENF with the standard elements of the Siting Board’s existing application, this format would also reduce overlapping permit narratives and documentation requirements. Leveraging the current ENF format also means the Siting Board would not need to develop its own standard set of environmental impact categories for use in applications but could use the existing standards that have been developed over decades of MEPA implementation.

Using a series of working groups with state and local agencies, private developers,

community organizations, environmental groups and utilities, the Companies are confident that redundancy in the aggregation model can be further limited. Over time, the Companies believe that the aggregation model could evolve into more of a purpose-built model and the separate, formal development of a purpose-built model will be unnecessary. In that regard, the Companies note that the current content and scope of petitions to construct jurisdictional facilities have evolved over the 50-plus years of the Siting Board's existence, largely without a set of prescriptive rules, and the Siting Board should leave room for the same evolutionary process to develop as implementation of the 2024 Climate Act proceeds.

2. If the Siting Board were to develop a common application after 2026 by a Purpose-Built Model for various types of facilities, please comment on the usefulness of the Major Transmission Facilities and Renewable Energy Generation Facilities application requirements recently issued in draft regulations by the New York Office of Renewable Energy Siting and Electric Transmission.

In general, the Companies do not support the Siting Board modeling its 2024 Climate Act application approach on the draft regulations under consideration in New York. The New York permitting process being considered is extremely detailed and prescriptive, which may unnecessarily add time and cost relative to the permitting process and could impede efforts by applicants, reviewing agencies in Massachusetts, and public participants in their development and review of energy facility applications. As an example, New York's existing process for renewable energy facilities has not resulted in expeditious completeness determinations, which has caused the length of facility reviews to span several years without a final decision.² Instead of following the New York model, the Companies urge the Siting Board to look to and modify the existing

² Under this system, a completeness determination has averaged 3.7 years, leading to extremely long permitting periods for jurisdictional energy facilities. Office of Renewable Energy Siting: Application Review and Site Permitting for Major Renewable Energy Projects, Report 23-S-52 at 10 (April 2024) (<https://www.osc.ny.gov/files/state-agencies/audits/pdf/sga-2024-23s52.pdf>). Importantly, the newly-proposed New York regulations would require completeness determinations within 60 to 120 days of filing and, if a completeness determination is not made within this time, the application is automatically deemed complete. PSL §§ 142(1); 143(1).

systems developed by the expert state and local agencies within the Commonwealth to create a process that will efficiently and timely meet the 2024 Climate Act goals.

3. **Given the potential adjudication of SCEIF by the EFSB under certain regulatory pathways and DOER’s development of the siting standards and applications for such facilities, what are the best means of aligning the respective EFSB and DOER roles for these facilities?**

The 2024 Climate Act clearly delineates the respective roles of the Siting Board and the Department of Energy Resources (“DOER”) in the siting of necessary small CEIF. Many of the same entities will be involved in both the small and large CEIF processes (i.e., the Companies, relevant state agencies, municipal organizations, environmental advocates, etc.) and, thus, be critical voices in the rulemaking process for both the Siting Board and DOER. The Companies believe that this consistent participation and the anticipated coordination between the Siting Board, DOER, the MEPA office, and other Commonwealth state agencies will ensure the development of consistent and complementary processes.

4. **If the EFSB were to develop a new or substantially modified electronic filing system for EFSB 2.0, please describe the features and functionality that are most important.**

The Companies strongly support the implementation of a streamlined electronic filing system and believe the most important factors for any such system are: (1) ease of use by applicants to ensure timely and accurate submissions can be uploaded; (2) straightforward labeling and navigation of the materials available electronically so that Siting Board staff, local and state officials and interested entities can identify subject matter material relevant to their expertise; and (3) a separate location for confidential or critical energy infrastructure information. Potential intervenors need to be able to access all public information easily to determine the nature and extent of any regulatory involvement. And a key ingredient to meeting the applicable 12 or 15-month timelines will be for the proponent and Siting Board to receive timely, high-quality input

from state and local agencies to be able to include in any decision. Achieving this will require agencies to receive information they need for their permitting considerations in a way they are used to seeing (i.e., by using familiar, existing permit applications where possible). To address issues such as these, the Companies believe that technical sessions, including potential platform vendors, local and state permitting agencies and potential future applicants, are necessary before draft regulations are developed in order to establish a successful filing process.

5. Given the expected increase in the number of cases for EFSB 2.0, expanded subject matter content of EFSB cases, more public participation, and the new EFSB de novo adjudication role, what components of a modified e-filing platform are necessary?

As indicated above, overall ease of use and functionality of the system are the most necessary components of any such electronic filing system. Working groups with technical experts will be important to identify the necessary factors for creation of a successful system.

6. Should the application specify specific numerical standards and analytical methods for conducting noise analyses, electromagnetic frequency analyses, visual impact analyses, and other required studies?

The Companies believe that the relevant state agencies and technical organizations should provide their expertise to help establish appropriate numerical standards. For example, any noise standards applied in the Siting Board's CEIF processes should be aligned with the well-established MassDEP noise standards. Similarly, electric and magnetic field standards should be adopted from expert entities like the World Health Organization and the International Commission on Non-Ionizing Radiation Protection. Visual impacts are too location specific for the practical application of uniform standards and are more appropriately addressed on a case-by-case basis. The Companies note that the current case-by-case process of EFSB 1.0 has done an excellent job of assessing impacts against numerical standards and the Siting Board's expertise will also be a key source of developing ongoing standards. Technical sessions by topic would be helpful in refining

impact-specific standards for the full range of potential studies considered in the Siting Board process.

7. With EFSB 2.0's de novo adjudication role under § 69W, how can the Siting Board ensure that the record submitted to the Board (after first being submitted to municipalities for their consolidated local permitting purposes) meets evidentiary and procedural requirements?

As indicated in the response to Question 3, above, the Companies believe that close coordination between the Siting Board and DOER in their respective rulemaking processes, as well as consistent participation of state and local agencies and relevant stakeholders, will be critical to ensure the development of a cohesive process for the siting of both small and large CEIF.

8. What other concerns or recommendations do you have to guide the development of EFSB applications?

The Companies' primary concerns and recommendations relate to three areas: (a) ensuring compliance with the required statutory timelines for the review of CEIF applications; (b) effectively coordinating the application and enforcement of state and local permitting considerations; and (c) avoiding the development of complex, prescriptive route and site selection standards. Each of these is discussed further below.

- Maintaining Necessary Statutory Timelines

The Companies overarching concern is that the application process needs to be crafted in a manner that allows the Presiding Officer's completeness determination to occur within 30 days of filing and minimizes deficiency determinations and serial revisions to an application before the process can begin. Thus, there must be a recognition that the completeness determination is a *preliminary* step, and that the ongoing process will be instrumental to developing the necessary and project-specific information. As the Siting Board staff has proposed, the standard should be

one of “substantial and material” compliance.³ Such a standard contemplates reasonable flexibility with regard to the application requirements and the recognition of the different types of projects and issues that each application may raise. Moreover, it also acknowledges the Siting Board’s timelines for reviews and the thorough procedures that will be utilized to allow staff and all parties the opportunity to secure a full understanding of pending proposals and the development of a complete evidentiary record. To ensure “substantial and material compliance” for applications, the Companies suggest the implementation of a straightforward filing checklist and a rebuttable presumption that, if an applicant has provided everything in the checklist, the application is complete. Such a checklist should be specific by project type, because the information necessary for an underground linear transmission line is significantly different from the information required to support a battery energy storage system or commercial-scale solar installation. Again, working sessions to develop such checklists would clarify the particular filing requirements for each potential project.

Specificity in expectations will be critical in setting and meeting the required statutory schedules. For example, the Siting Board’s straw proposal (at page 15) indicates that a complete application would include: “(i) an accurate and complete description of the facility, site, and surrounding areas; (ii) proof of satisfactory completion of pre-filing requirements; (iii) all Application requirements, including sufficient information for state and local agencies to provide statements of recommended permit conditions; and (iv) evidence sufficient for the Siting Board to make required findings.” The Companies request specific instructions (in guidance documents) to ensure common understandings of these requirements. For example, as referenced above,

³ The Siting Board straw proposal also offers this “substantial and material” compliance standard as part of its proposed definition of a “complete” application: “An application that is in *substantial and material* compliance with all informational requirements established in statute, regulations, and policies applicable to review of CEIF applications by the Siting Board” (at page 15, emphasis added).

“surrounding areas” could be subject to multiple interpretations (i.e., within a certain distance, direct abutters, variable by project type, etc.). The same is true of references to “sufficient information for state and local agencies” to provide comments – what would be considered “sufficient” and who would make such a determination (the Siting Board or the commenting agencies)? Lastly, the requirement for an applicant to provide “evidence sufficient for the Siting Board to make required findings” should be interpreted flexibly to recognize the ultimate development of the complete record through discovery and evidentiary hearings. The application simply cannot be expected to contain everything a fully developed evidentiary record would include. Each of these considerations should be the subject of further discussions with stakeholders in working or technical sessions and result in guidance documents that can be modified over time as lessons are learned about the implementation of this process by all entities.

- Coordination of Applicable State and Local Requirements

Pursuant to the 2024 Climate Act, the Siting Board is the arbiter of energy facility siting determinations and should specify the information that is required in the application based on agency input. Any process that requires some level of “pre-approval” or acceptance from other state and local agencies would frustrate the intent of the statute. The straw proposal (at page 16) indicates a key consideration for the Siting Board will be the identification of all state and local permits in the application. Specifically, “[a]ny questions as to applicability of such permit requirements, and information expected by such agencies, must be addressed by the proponent with the permitting agency prior to submission of the application” (emphasis added). As a practical matter, this language could be problematic in situations where local agencies or residents oppose particular projects (or types of projects). It is foreseeable that, despite robust outreach and communications, an applicant is unable to reach “consensus” prior to filing with the Siting Board.

Relatedly, local permitting agencies could impose conflicting or unreasonable application requirements, which would leave an applicant unable to begin the Siting Board process under the above language. Similar problems with complying with this requirement could occur where the personnel at a state or local agency is unavailable or does not have the time to dedicate to consider a proposed application. In other instances, such an application requirement may necessitate appearing before a local zoning or planning board to get a formal applicability determination or input on what information local agencies expect to see in a Siting Board application. This would not streamline the permitting process and it could effectively front load the permitting of necessary energy projects on a piecemeal basis, essentially providing local and state agencies a potential “veto” or delay opportunity prior to the filing of any Siting Board application. In developing its regulations or requirements, the Siting Board should avoid this type of unintended result.

- Route and Site Selection Considerations

With respect to route and site selection, it is important to note that the methodology for route selection for linear facilities is considerably different for single-location facilities such as solar arrays, battery storage systems, or substations. Further, the applicable criteria will differ based on whether a transmission line is overhead or underground, in a rural, urban or suburban area (or all of the above), and particularly based on whether an existing transmission right-of-way already exists. Therefore, guidance on presentation of an applicant’s route/site selection process should be flexible rather than prescriptive and account for distinctions between linear and single-point projects.

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 straw proposals. The Companies look forward to reviewing the comments of other interested stakeholders and continuing to participate 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, standards, and guidance protocols to implement the 2024 Climate Act.

Respectfully Submitted,

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MASSACHUSETTS ELECTRIC COMPANY
AND NANTUCKET ELECTRIC COMPANY
EACH d/b/a NATIONAL GRID**

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