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March 31, 2021

Ms. Tori Kim, Director
MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Comments on MEPA regulatory review

Dear Ms. Tori Kim:

Eversource Energy Service Company ("Eversource") appreciates the opportunity to submit this comment letter in response to the MEPA Regulatory Review of the MEPA, February 2021 Power Point presentation regarding its regulations, 301 CMR 11.00.

Eversource operates New England's largest utility system serving more than 3.6 million electric and natural gas customers in Connecticut, Massachusetts and New Hampshire. In order to meet our obligations to provide vital public services, Eversource must access its physical utility systems to conduct routine maintenance, construction and emergency repair operations and to ensure system reliability and safety standards are maintained in compliance with national, regional, and industry standards and policies. Eversource takes very seriously and values its role as an environmental steward and strives to ensure that all required activities are carried out in accordance with numerous federal, state, and local environmental regulations, including MEPA. We are grateful for the opportunity to provide our comments early in your Office's process of evaluating revisions to the MEPA regulations.

Additional Language for Utility Exemption

As you know, under the existing MEPA regulations, utility projects that constitute maintenance, repairs, replacements or relocations of existing equipment, are exempt from MEPA review. This exemption is afforded to utility projects under M.G.L. Ch. 30 §62A , which states in pertinent part "this section shall not apply to the placing, maintaining, repairing or relocating of poles, wires, conduits, cables, pipes and associated fixtures by public utility companies under section seventy-one of chapter one hundred and sixty-four and sections twenty-one to twenty-two, inclusive, of chapter one hundred and sixty-six."

Eversource performs necessary routine maintenance and replacement projects on its miles of transmission lines to ensure the continued reliable supply of electrical power to the region. While such projects do not require MEPA review, it does not obviate our requirement to obtain any applicable permits that might otherwise apply. The statutory exemption simply means that these projects are not subject to the requirements of an Environmental Notification Form ("ENF") or Environmental Impact report ("EIR") through MEPA review, as a precursor to state permitting.

As such, Eversource suggests the following language should be added to 11.01 (2)(a) Jurisdiction to elucidate this exemption in the regulation:

4. MEPA jurisdiction does not apply to the placing, maintaining, repairing or relocating of poles, wires, conduits, cables, pipes and associated fixtures by public utility companies.

Clarification of MEPA Definitions

Eversource incorporates and follows Best Management Practices (“BMPs”) into the design and construction of its projects to avoid and minimize impacts to the maximum extent practicable. For example, construction mats are recognized as a BMP by the U.S. Army Corps of Engineers and the Massachusetts Department of Environmental Protection and an industry practice for equipment operation in or across vegetated wetlands in order to distribute the equipment weight and minimize the disturbance of wetland soil and vegetation.

As such, we suggest the following language in the definition for “Routine Maintenance”:

*Any maintenance work or activity carried out on a regular or periodic basis in a manner that has no potential for Damage to the Environment or for which **best management practices or performance standards have been developed that avoid, minimize, or mitigate potential environmental impacts to the maximum extent practicable.***

Additionally, for the same reason as above, as well as for consistency within the regulatory language in its definitions, we suggest the following language in the definition for “Replacement Project”:

Any Project to repair, replace, or reconstruct a previous use of or Project on a Project site that does not:

- (a) increase potential environmental impacts or **for which best management practices or performance standards have been developed that avoid, minimize, or mitigate potential environmental impacts to the maximum extent practicable** ~~need additional or changed environmental Permits;~~*
- (b) result in any substantial (10% or more) Expansion of the use or Project, provided that the previous use or Project has not been discontinued for more than three years and that the Expansion does not meet or exceed any review thresholds.*

Updates to MEPA Thresholds

11.03(7)(a) 4. Construction of electric transmission lines with a Capacity of 230 or more kV, provided the transmission lines are five or more miles in length along new, unused or abandoned right of way.

Eversource does not support the suggested revision to lower the following mandatory EIR Energy review threshold from 230 kV to 115 kV. The purpose of the MEPA regulations is to allow meaningful consideration and public review of potential environmental impacts associated with projects of a certain size and scope that meet regulatory thresholds and require state action. The proposed lowering of the electric transmission line review threshold based solely on voltage, without any rationale that it somehow causes increased potential environmental impacts, seems arbitrary and unnecessary, since the Secretary retains authority to require an EIR upon review of a project triggering an ENF for the “construction of an electric transmission line with a capacity of 69 or more kv, provided the transmission lines are one or more miles in length along

new, unused or abandoned right of way.” As a publicly regulated utility company, Eversource has an obligation to provide safe and reliable energy to its customers, while at the same time, conduct its projects in a manner that avoids, minimizes and mitigate adverse environmental impacts. This is a standard that our company takes very seriously. Lowering the review threshold based solely on voltage without providing any reasoning that it correlates to an increase in environmental harm, will slow down and drive up the costs associated with many of our projects, which is detrimental to both our business and our customers. As previously stated, we are still required to obtain all applicable state permits that are necessary for such projects and comply with all approvals and conditions of such permits.

11.03(3) Wetlands, Waterways and Tidelands

For some utility projects, the only impacts that trigger MEPA review are from the use of construction mats in wetland resource areas. As previously stated, use of construction mats is a BMP that protects wetlands and avoids permanent adverse impacts. It is for this reason that the use of construction mats should not be considered an alteration of wetland resource areas and should be excluded from wetland impact calculations that trigger MEPA review under 11.03(3). We suggest adding the following language:

11.03(3)(a)1. Provided that a permit is required; and the temporary use of construction mats in wetland resource areas shall not be considered an alteration for the following:

11.03(3)(b)1. Provided that a permit is required; and the temporary use of construction mats in wetland resource areas shall not be considered an alteration for the following:

Environmental Justice Protocol

Eversource supports the proposed MEPA environmental justice strategy and has no additional comments.

Climate Adaptation Protocol

Eversource recognizes that the impacts of climate change are increasingly playing a crucial role in the operation of our electric, gas, and water infrastructure. We have taken concrete steps to assess, retrofit, and design our system to withstand climate change while incorporating data from the most current federal, state and local climate studies into the early phases of design for our projects. We feel this will support our core mission to provide safe, reliable, and resilient service to our customers.

Eversource appreciates MEPA’s attention to climate adaptation and supports incorporating the Executive Office of Energy and Environmental Affairs (“EEA”) climate tool into ENF form. Nevertheless, MEPA’s expectation for any analysis should be consistent with the intent of MEPA, which is to facilitate environmental planning in the earliest phases of design for a Project.

Greenhouse Gas Policy and Protocol

Eversource is intimately familiar with MEPA’s Greenhouse Gas Emissions Policy and Protocol and has provided comprehensive greenhouse gas analyses, as part of previous ENF and EIR filings, to demonstrate that our projects carefully consider greenhouse gas impacts and adopt all means and measures to reduce those impacts.

Eversource appreciates MEPA's attention to greenhouse gas concerns and will continue to work with regulatory agencies to support areas where we can continue to reduce our carbon footprint and achieve carbon neutrality by 2030.

In closing, we appreciate your consideration of our comments and concerns with the draft language contained within the MEPA Regulatory Review February 2021 PowerPoint and look forward to opportunities for continued discussions with you and your Office as you consider the detail language of any potential regulatory reform.

Sincerely,

A handwritten signature in black ink, appearing to read 'DB', with a long horizontal flourish extending to the right.

Denise M. Bartone
Manager, Licensing & Permitting