STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

SEC DOCKET NO. 2015-04

Application of Public Service Company of New Hampshire d/b/a Eversource Energy
for a Certificate of Site and Facility for
Construction of a New Transmission Line (Madbury to Portsmouth)
a/k/a Seacoast Reliability Project

BRIEF OF INTERVENOR DONNA HEALD

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A. SUMMARY OF PROJECT IMPACT ON MS. HEALD'S PROPERTY

Ms. Heald's residence and private property is located at 220 Longmarsh Road in Durham, New Hampshire. She has owned the property since 1979. According to a subdivision plan, her property is fronted by a Class 5 and Class 6 road. DR Ex. 1 at 3 of 22. DR Ex. 2 at 10. DR Ex. 17. Her property is heavily wooded and a condition of the subdivision prohibits her from cutting trees within 100 feet of her property line along Longmarsh Road. DR Ex. 17. Her property is bisected by a hundred (100) foot wide right-of-way easement deeded to New Hampshire Gas and Electric Company on December 6, 1949.

As the Committee is aware, Public Service Company of New Hampshire d/b/a Eversource Energy ("Applicant") proposes to install a 115kV transmission line and associated support structures within the 100-foot easement. The existing utility poles on Ms. Heald's property carry 34.5kV distribution lines and are depicted on App. Ex. 148, map 18 of 31. They are roughly equidistant from Ms. Heald's residence and are out of sight of her home. Ms. Heald purposefully placed her home as far as she could from each existing pole so as to not see them from her home. Tr. 10/26/18 PM at 175 lines 7-9. The Applicant's proposed new structure near Ms. Heald's home is a 4-foot wide, 103-foot tall pole. It will be placed a mere 110 feet from Ms. Heald's home and will replace the two existing poles carrying the 34.5kV line. Although the Applicant has moved poles for other property owners in the area (App. Ex. 148, maps 18 and 19), it has only offered to move the pole 50 feet in either direction of the proposed location. This move does not address Ms. Head's concern because moving the pole that little barely changes the distance of the pole from Ms. Heald's home and it does not improve aesthetics. App. Ex. 229.

Ms. Heald is a professional gardener and has been propagating plant stock on her property for use in her gardening business and, importantly, for her future retirement income

from the direct sale of plants. DR Ex. 1 at 2-3. Ms. Heald also grows plants for pollination, medicinal purposes, and for foraging. Tr. 10/26/18 PM at 154 lines 22-23. Much of the plant stock she has amassed over the past 39 years is located within the 1949 easement. DR Ex. 1 at 5 lines 17-19. Ms. Heald has hundreds of thousands of plants in jeopardy of being destroyed by the Seacoast Reliability Project ("Project"). Tr. 10/26/18 PM at 100 lines 18-21. DR Ex. 2 at 4 of 9, line 14.

According to the Applicant's construction panel, Ms. Heald's property will be impacted over the course of 2019 and 2020 (Tr. 8/30/18 PM at 104) by grading, topographical changes and construction of construction roads (Tr. 8/30/18 PM at 91), construction of work pads (Tr. 8/30/18 at 90 lines 7-10), placement of timber mats (Tr. 8/30/18 PM at 90 lines 18-24), passage of construction vehicles including bulldozers, skidders, and heavy cranes (Tr. 8/30/18 PM at 94-96), tree and vegetation removal, noise, the inability to use her land east of the easement, and compression of soils.

B. SUMMARY OF CONCERNS

Ms. Heald's summary of concerns have changed over the past two years as a result of learning more information about the Project. They are as follows:

> 1. The project will greatly damage her plant stock within the easement which, in turn, will have a damaging effect on her present gardening business and her future income from plant sales.
>
> 2. The Applicant's planned construction window will likely coincide with the time of year that Ms. Heald will most need her plant stock for income. DR Ex. 2 at 9 lines 18-20. She now understands that the construction will kill all of the plants underneath the construction area. DR Ex. 2 at 9 line 2. Tr. 10/26/18 PM at 99 line 10-19. Tr. 10/26/18 PM at 101 lines 4-9.
>
> 3. That simply relocating Ms. Heald's plants on another section of her property is no longer a viable option given the hundreds of thousands of plants she has within the easement and the lack of sunny locations elsewhere on the property. DR Ex. 2 at 4 lines 14-15. The square footage of plants to relocate that

the Applicant depicted on its planting plan (DR Ex. 1 at 37) is woefully undersized. Tr. 10/26/18 PM at 252 lines 5-22.

4. Ms. Heald is concerned that an inventory may not adequately capture the extent of her plants unless it is conducted over the entire growing season. This is because not all of the plants are visible at the same time. Tr. 10/26/18 PM at 101 lines 8-16. Ms. Heald has been propagating plants on her property for 39 years. Tr. 10/26/18 PM at 154 lines 19-24.

5. As Ms. Heald testified at hearing, she now understands that the Project construction will impact her property greater than she previously understood. Tr. 10/26/18 PM at 99-101, 106, 107-108, and 174. As a result, there are more plants than she thought that will be in harm's way. This increased number of plants makes it extremely difficult to find an offsite location for her plants. *Id.* By her estimate, and because potted plants take up more space than plants in the ground, the relocation area would need to be multiple times larger than the existing 75,000 square feet of the easement. Tr. 10/26/18 PM at 107-108. The vastness of what now needs to take place to protect her plants is daunting. Tr. 10/26/18 PM at 101 lines 16-18. This vastness causes her to be doubtful that a workable temporary relocation plan (that includes someone to care for her plant stock and replant them once the Project is completed) will be successfully developed. DR Ex. 3.

6. Given the past unmitigated compression of soil by the Applicant in the easement and the potential of future compression given the extent of heavy equipment that will be on her property, Ms. Heald is very concerned about the ability of her soils to support her plants after the Project is constructed. Tr. 10/26/18 PM at 101 lines 2-15. Ms. Heald seeks the Committee to require the Applicant to return her soil conditions and elevations to pre-construction conditions, to replant her plants, and not introduce foreign plants to her property that could jeopardize her plants.

7. She may be without water during construction because the easement runs between her well and house and the Applicant plants to run heavy equipment over her water line. Damage to the line by the equipment could result in her not being able to bathe or cook and water her plants. During the hearing, Ms. Heald learned that there would be a claims process in the event she ran out of water or the Project damaged her water line. Tr. 10/26/18 PM at 177 lines 9-24 at 178 lines 1-7. Given that she needs water every day for her plants as well as for basic living, Ms. Heald considers a claims process to be wholly absurd at meeting her water needs. *Id.* Although the Applicant's offered to park a water truck on her property, that raises more questions than it answers as to potability, operational use, pressure, and space to place a truck. App. Ex. 229.

8. She had been told that during construction she would not be able to cross the easement to reach her property on the east side of the easement. DR Ex. 2 at 5 lines 16-22, at 6 lines 1-6. The Applicant has offered no objective means for valuing and compensating her for this type of loss of use of her property and no Applicant witness has opined on this type of loss.

9. That she be notified at all times, well in advance, by certified mail, of when crews will be on her property so that she can be present to ensure that additional damage to valuable plants off the easement or thefts do not occur. Certified mail is necessary due to the Applicant saying they contacted Ms. Heald by phone but Ms. Heald did not receive those calls. Ms. Heald is also concerned that her necessary presence monitoring work crews will result in loss of work and income.

10. The Applicant is unnecessarily locating poles close to her house and there is no good reason why poles can't be placed where the existing poles are located. The Applicant's environmental panel confirmed that there were no environmental reasons preventing relocation of the proposed pole. Tr. 9/20/18 PM at 69-70.

11. Screening options for the poles, in particular F-107-90 that is proposed to be 110 feet from her house, do not screen the pole from view of her house. Screening proposals by the Applicant continue to be inadequate because plants do not grow well in northeast shade. (DR Ex. 2 at 6-7) It is also important to Ms. Heald that the Applicant screen her neighbors from view so that she can regain her privacy. Even the Applicant's witnesses cannot confirm that the screening will be effective from the vantage point of Ms. Heald's home. Tr. 9/18/18 PM at 96. Tr. 9/21/18 AM at 139-140. Tr. 10/15/18 PM at 12-14.

12. The Project will temporarily and permanently reduce the value of her property and, again, no Applicant witness has opined on a process for compensating Ms. Heald for this type of damage.

13. The sounds from the power lines will interfere with the peaceful nature of her home.

14. The increase in power being transmitted over the easement will be harmful to Ms. Heald's health and that it will interfere with her ability to listen to her radio and use other electronics. DR Ex. 1 at 4-5. The Applicant has offered no mitigation measures to address this concern. Especially given that the Project involves placing an large 115kV line in a small 100-foot wide easement-which is an unconventional use of a small easement, and is in addition to the 34.5kV line. Ms. Heald is also concerned that the Applicant has not disclosed the purpose of installing yet additional, unknown lines physically above the 115kV line and this further exacerbates her health concerns and that there appears to be no limit to the amount of kV placed in a 1949 easement. Ms. Heald is unsure if it will be safe to work under the power line post construction. Ms. Heald also wants to ensure that the Applicant conducts EMF readings at her home before and after construction the Project as she has requested in the past. DR Ex. 1 at 31. This request is fueled by the fact that Ms. Heald spends a great deal of time in the easement tending to her plants.

15. The Applicant has approached Ms. Heald about a buy-out and/or mitigation. App. Ex. 229. To that end, Ms. Heald has been trying to find a

> similar property elsewhere, to no avail. The benefits of her present property are not easily re-created and a new property will be far more costly to buy and live on than her current property. Ms. Heald remains concerned about the cost to move herself and her plant stock and about potential damage to her plants and ability to earn income. The value of her property to her and her business is in her plants, which is not often valued in a general property appraisal. As a result, she has little confidence that she will be compensated appropriately.

C. LEGAL AUTHORITY

Pursuant to Site 202.19, the Applicant has the burden of proof by a preponderance of the evidence for facts that are sufficient to satisfy the requirements of RSA 162-H and the Site Evaluation Committee's ("Committee") rulings on:

> (a) The applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.
> (b) The site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.
> (c) The site and facility will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety.
> (d) [Repealed.]
> (e) Issuance of a certificate will serve the public interest.

Ms. Heald will address the issues of orderly development of the region and public interest in this brief.

D. ARGUMENTS

1. The Applicant Failed to Fully Assess the Economic Impact of the Diminished Tax Revenues and Reduced Tax Collections on Host Communities Due to Tax Abatements. Therefore, the Committee is Unable to Render a Determination on this Criteria as part of its Findings on whether the Project will affect the "economy of the region."

Pursuant to Site 301.09(b)(3), the Applicant was supposed to provide information as to the effect of the Project on "State tax revenues and the tax revenues of the host and regional communities." This analysis includes local tax abatement requests. RSA Chapter 76. As one

public comment from a real estate broker who is qualified as an expert before the New Hampshire Board of Tax and Land Appeals explained, "[t]he presence of large transmission poles carrying high voltage electricity will certainly diminish property values for the unfortunate property owners under and near these oversized electrical poles." "I would encourage any affected property owner to seek abatement of their property tax to account for the loss of value." 10/26/18 Public Comment of Christopher Snow, President, Property Tax Advisors, Inc.

Dr. Lisa Shapiro testified that she was not charged with covering the impact of abatements but that Dr. Chalmers and Robert Varney would be covering that subject. Tr. 9/21/18 pm at 30 lines 8-16. The problem is, Dr. Chalmers did not address the impact of the Project on abatement requests. App. Ex. 12. App. Ex. 147. Tr. 9/24/18 AM. Tr. 9/24/18 PM. Nor did Robert Varney. App. Ex. 13, 81, and 146. Tr. 10/11/18. No other Applicant witnesses covered this subject. As a result of this oversight, the record is void of any information or analysis on this required criteria. Accordingly, the Committee is unable to rule on this criteria in its findings on whether the Project will affect the "economy of the region." Site 301.15(a).

2. The Impact of the Project on Abutting Private Property Remains Unknown, Unmeasured, and Unaddressed, and, Accordingly, the Committee is unable to Rule on this Criteria of Public Interest

As the Committee is aware, one of the standards the Applicant must meet is whether the Project will serve the public interest. RSA 162-H:16, IV(e). The Committee's rules define the criteria used in determining that public interest to expressly include how the Project impacts "private property." Site 301.16(b). As such, the impact of the Project on private property is a criteria the Committee must consider. *Id.*

The Applicant offered the testimony of Dr. James Chalmers. App. Ex. 12. Dr. Chalmers testified that the purpose of his testimony was to "provide my professional opinion with respect to the possible effects of the Project on both property values and marketing times *in local and*

regional real estate markets" in New Hampshire (emphasis added). App. Ex. 12 at page 1 of 13, lines 27-29; Tr. 9/24/18 AM at 37, lines 3-10. This scope of opinion directly relates to Site 301.09(b)(4) which concerns the effect of the Project on the orderly development of the region and the economy of the region and the effect on real estate values in the affected communities. Dr. Chalmer's conclusions are that:

> (1) "there is no evidence that HVTL result in consistent measurable effects on property values, and, where there are effects, the effects are small and decreasing rapidly with distance." App. Ex. 12 at page 10 of 13, lines 26-28; and
>
> (2) "[g]iven the small number of properties involved, it is my opinion that there will be no discernable effects on local or regional real estate markets due to the Seacoast Reliability Project." App. Ex. 147, page 23 of 23, lines 13-14.

While Dr. Chalmers' opinions relate to economic and orderly development concerns, the conclusions do not speak to the impact of the Project on abutting private property. That analysis and opinion is completely missing from Dr. Chalmers' testimonies. Dr. Chalmers' assessment of the impacts on "markets" is a distinctly different analysis than determining to what extent the Project impacts abutting private property. RSA 162-H:1. This distinction between real estate markets and private property is not just an argument about semantics. The rules and statute are very clear on the criteria measured for the public interest determination. Dr. Chalmers' opinions repeatedly miss the mark. His conclusions do not answer the most important question to abutting private property owners, which is, what is the diminished value to their property and how will the Applicant make them whole? As a result, the Committee is left unable to measure, pursuant to Site 301.16(b), the Projects' impact on private property and determine, pursuant to RSA 162-H:1, whether the Project serves the public interest.

It is important to note that between Dr. Chalmers' April 12, 2016 testimony (App. Ex. 12) and his July 27, 2018 testimony (App. Ex. 147), Dr. Chalmers became aware of the deficiency in his testimony and explained that his July 2018 testimony was in response to

information arising in "another docket" and that it included "updates and revisions". App. Ex. 147 page 1 of 23, lines 9-12. Part of those revisions included abutter property-specific information. See, e.g., pages 12, 13, 15, 16, 17, and 18 of 23. While Dr. Chalmers finally correlated his market research to specific private properties in App. Ex. 147, he concludes "there is a relatively small group of properties that after construction of the Project will have the characteristics the case study research indicates is associated with an increased likelihood of sale price effect." App. Ex. 147, page 15 of 23, lines 3-5. Rather than offer a value or means to mitigate the effect on private property, Dr. Chalmers rigidly held to his original conclusion about markets, that "the additional information described above has provided further support for my *original conclusion that the number of residential properties that may experience market value effects due to the Project is very small and, as a consequence, would not have a discernable effect on local or regional real estate markets*" (emphasis added). App. Ex. 147, page 2 of 23, lines 7-10. Again, this opinion has no bearing on what the diminished value on private property will be nor does it explain how the Applicant will make the affected private property owners whole. For this reason, the Applicant has failed to produce sufficient information to establish that the Project's impact on private property serves the public interest. The result is that the Committee has nothing in the record to assess whether the Project's impact on the private property of abutters serves the public interest.

3. Errors in Dr. Chalmers Analysis Undermine the Relevance of his Conclusions

Even if Dr. Chalmers had opined on abutters private property values, his research contains errors that undermine the relevance of his conclusions to the abutters.

For example, in Table 4 on page 15 of 23 in App. Ex. 147, under Structure Visibility, Dr. Chalmers lists Ms. Heald's visibility as "partial" before and "partial" after. Dr. Chalmers testified that this view of Structure Visibility is from the perimeter of the house. Tr. 9/24/18 AM

at 49, lines 5-8. This view category is incorrect as to Ms. Heald's property, the visibility should be "none" and either "partial" or "clear".

As Ms. Heald stated in her pre-filed testimony, she cannot see the structures (poles or wires) from her home. DR Ex. 1, page 15 of 22, lines 9-18. The Committee should give greater weight to the testimony of Ms. Heald over Dr. Chalmers as to the accuracy of the Structure Visibility because Dr. Chalmers did not base his characterization on the view from the perimeter of the house. Rather, Dr. Chalmers testified that he "simply viewed the property from the street." Tr. 9/24/18 AM at page 49, lines 17-18. Dr. Chalmers also relied on faulty maps and plans. When asked on what he relied to conduct his visibility analysis, Dr. Chalmers stated that he relied on the Applicant's environmental maps and construction plans. App. Ex. 148 at 11, lines 16-20. Tr. 9/24/18 AM at 40 lines 8-19, at 48 line 14. The problem is that neither Applicant Exhibits 84, 148, nor 47 show the location of Ms. Heald's home. Although Applicant's later Exhibit 149 shows Ms. Heald's home, these plans could not have informed Dr. Chalmers' leaf-on, leaf-off analysis because they weren't completed until the date of Dr. Chalmers' supplemental testimony. For these reasons, the Committee should give Ms. Heald's account of visibility greater weight than Dr. Chalmers.

The inaccuracy of the Dr. Chalmers' Structure Visibility categories and visual simulations are important because they affect values. As Dr. Chalmers testified, the Structure Visibility categories are a measure of potential diminution of value. Tr. 9/24/18 AM at 50 lines 8-17. The more visible the structure, the greater the likelihood is that there will be a diminution of value. *Id.* However, is also important to note that while the categories appear to be clearly drawn distinctions, the category of "partial" is exceedingly broad; it is all views not "clear" or "none". Tr. 9/24/18 AM at 45 lines 14-16. As such, this broad, vague category hampers making any correlation between the diminution in value and an actual dollar amount.

Because of these errors in Dr. Chalmers' assessment of the visibility of the proposed structures and errors in knowing where houses are located in his leaf-on, leaf-off assessments, Dr. Chalmers' characterization of the visibility of the structures to Ms. Heald is not relevant to her property. Because the assessment is not relevant, the Committee cannot accurately tell which private properties are impacted visually and by what amount. This lack of information means the private property owners such as Ms. Heald are left not knowing how much the Project will diminish the value of her property. This is compounded by the Applicant failing to explain in the record how, when, and by how much, such property owners will be compensated.

4. Ms. Heald's Property Meets Dr. Chalmers Criteria for Diminished Value

Dr. Chalmers has specified the following criteria as being indicators of a price effect: 1) the private property is encumbered by the utility easement right-of-way, 2) the house is within 100 feet of the right-of-way, and 3) the view from the home of the new structures will be more visible than the existing structures. Tr. 9/24/18 AM at 42 lines 11-19. Ms. Heald meets all of these criteria, however, Dr. Chalmers nor the Applicant have quantified the dollar value of this "price effect". Dr. Chalmers qualified that the price effect would be felt at the time a private property owner puts their property up for sale (App. Ex. 147 at 23 lines 8-10), however, he failed to note other instances where such a price effect would be felt such as in tax abatements and refinancings. Furthermore, Dr. Chalmers and the Applicant have still not identified what this diminished value is and how property owners will be compensated.

5. The Applicant Failed to Offer Applicant's Exhibit 193 for Cross Examination

Evidence provided by the Applicant to support its burden of proof must be available for cross examination by the parties consistent with RSA 541-A:31(IV) (an opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved) and

RSA 541-A:33(IV) (a party may conduct cross-examinations required for a full and true disclosure of the facts.)

During the hearings, on September 17, 2018, the Applicant provided the Committee with proposed conditions for the subcommittee's consideration "in the event that the subcommittee grants a Certificate for Site and Facility to the Applicant." The Applicant also marked the document as an exhibit, Applicant's Exhibit 193, yet never proffered a witness to present the exhibit. The terms within the document included the following:

> **Mitigation and Dispute Resolution Process**
>
> 17. Further Ordered that, the Applicant shall publicize, on its website and through its Project outreach communications, contact information for business and property owners concerned about the potential impacts of construction or operation of the Project on their business or property to communicate their concerns. Within 10 calendar days of contact by such business or property owner, the Applicant shall initiate direct discussions with said business or property owners to identify and implement appropriate strategies to avoid or mitigate potential Project impacts on a case by case basis.
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> 18. Further Ordered that, if a business or property owner remains unsatisfied with the outcome of the Applicant's mitigation efforts, such party may request an executive review, including an investigation and determination through the Eversource customer resolution process, independent of the Project team ("Executive Review"). Such Executive Review shall be initiated within 10 calendar days of a request and shall be completed no later than 30 calendar days thereafter.
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> 19. Further Ordered that, if a business or property owner remains unsatisfied with the outcome of the Applicant's mitigation efforts and the Executive Review, the Applicant agrees to participate in non-binding mediation ("Mediation") with such business or property owner. An independent mediator shall be selected from among the list of NH Superior Court Neutrals found at https://www.courts.state.nh.us/adrp/superior/index.htm.
>
> 20. Further Ordered that, if business or property owner concerns remain unresolved following Mediation, a business or property owner may elect to have the dispute resolved through the Dispute Resolution Process described below. While the Dispute Resolution Process is not mandatory, if a party elects to utilize the Dispute Resolution Process, that party waives the right to file suit on disputed issues in court, and the Dispute Resolution Process becomes the exclusive forum for deciding all disputed issues.

> 21. Further Ordered that, the SEC shall appoint an attorney or retired judge (the "Dispute Resolution Administrator") who shall independently administer a dispute resolution process for all disputes relating to damage to property, loss of business or loss of income, and/or diminution in value of real property, caused by the construction or operation of the Project (the "Dispute Resolution Process") that have not been resolved through Applicant's mitigation efforts, Executive Review or Mediation. Counsel for the Public and Applicants shall jointly or separately file with the SEC proposed procedures for filing and deciding said disputes, including criteria for eligibility, a procedure for filing claims, required proof of the damage, loss, or diminution, the presentation and consideration of claims, the basis for recovery and the manner of deciding claims. Applicants shall establish a fund for the payment of claims ("Dispute Resolution Fund") which fund shall be solely administered by the Dispute Resolution Administrator, who shall provide to the SEC a quarterly report of the Dispute Resolution Fund, including all disbursements with a copy to the Applicant. The Dispute Resolution Administrator shall be paid an hourly rate to be determined by the SEC, and said compensation and all expenses of the Dispute Resolution Administrator shall be paid from the Dispute Resolution Fund, subject to approval by the SEC. Upon issuance of a certificate, Applicants shall deposit One Hundred Thousand ($100,000) Dollars to establish the Dispute Resolution Fund and shall thereafter deposit any additional funds necessary to pay all awards made by the Dispute Resolution Administrator and to pay the Dispute Resolution Administrator's compensation and expenses. The Dispute Resolution Administrator shall accept written requests for dispute resolution until the two-year anniversary date of the date when the transmission line is placed in service. The Dispute Resolution Administrator shall process and provide to the requesting party, the Applicant and the SEC Administrator a confidential written decision ("Decision") on all written requests for dispute resolution filed with the Dispute Resolution Administrator prior to said deadline. The Decision and any reconsideration thereof shall be final, non-appealable and non-precedential. All funds remaining in the Dispute Resolution Fund after the payment of all awards and the payment of the Dispute Resolution Administrator's compensation and expenses shall be returned to Applicants.

Because of the Applicant's tactical decision to not offer a witness to sponsor the exhibit, the parties were unable to cross examine and vet the Mitigation and Dispute Resolution Process which the parties have a right to do under RSA 541-A:33(IV). The mitigation and dispute resolution process states that it applies to "concerns" but offers no details as to the scope of the concerns or breadth or timing of the remedies.

Subject areas the parties would have vetted the document for include, for example, a situation where if Ms. Heald's water line is damaged, how timely would her "concern" be

processed, and would it involve monetary compensation or specific performance by the Applicant? Other questions include, if a concern is not processed quickly and, in Ms. Heald's situation, she losses plants due to lack of water, by what criteria will her damages be measured? How will businesses and property owners use the electronic claims process if they have limited access to computers and the internet? Will fees such as attorney's fees and costs, and the cost of independent valuation experts for the "business and property owners" be paid for by the Applicant or do the "business and property owners" have to pay for the experts and counsel first and then seek reimbursement? What valuation methods (income approach/comparable sales approach/other) will be used for business like Ms. Heald's? What type property appraisals will be used and will they include home-based business interests? How will the Committee confirm that the Applicant has the financial ability to remedy all "concerns"? Why should the Committee approve a two-year statute of limitations that is shorter than in civil cases? Will the dispute resolution process address harms associated with increased EMF exposure and are those harms limited to harms made known only within the two years? None of these questions and issues were addressed by the Applicant's witnesses or cross examined by the parties.

Questions like these demonstrate that the Applicant should have offered this mitigation and dispute resolution idea sooner in the proceeding and should have done so in conjunction with its witnesses so that questions like these could be answered. Instead, the parties and Committee are left with the suggestion of a method for addressing concerns but with no firm details or understanding of how it will serve the public interest. Because this exhibit was not subject to cross examination so that the parties and Committee could vet its content, Ms. Heald argues that the Committee should give Exhibit 193 no weight.

E. SUMMARY AND CONCLUSION

After fifteen days of hearings, it is problematic to see that the Applicant's case contains glaring omissions on required criteria. One such criteria is the lack of expert opinions on the impact of the Project on private property. The Applicant's Dr. Chalmers testified at length on the markets component of the orderly development criteria, but even when the error of his scope was brought to his attention via the Northern Pass docket, he still inexplicably held to his opinion on markets and did not render an opinion on how the Project would affect specific private property, as required by RSA 162-H:16, IV(e) and Site 301.16(b).

Even if Dr. Chalmers had opined on how the Project would affect specific private property, numerous factual errors in his analysis render his analysis irrelevant to the abutting property owners. Dr. Chalmers's analysis erroneously categorizes property owners' views of structures. These categories are important because Dr. Chalmers testified that whether the property owner had a clear or partial view of the structure impacted the adverse "price effect" that property would suffer. Without credible values for the diminished value of the private property, the Committee cannot assess the financial impact of the Project on private property.

In another omission, the Applicant did not provide information on how the Project will impact the tax revenue of local communities due to private property tax abatement requests. Indeed, Applicant's witness, Dr. Shapiro recognized the need for an assessment on tax abatements but thought other witnesses were covering that issue. These other witnesses did not, thereby leaving a gap in the Applicant's analysis on this aspect of the required criteria.

Dr. Chalmers identified criteria for when abutting private property would likely experience "price effect" and Ms. Heald's property contains all three criteria: 1) the private property is encumbered by the utility easement right-of-way, 2) the house is within 100 feet of the right-of-way, and 3) the view from the home of the new structures will be more visible than

the existing structures. Without property-specific values pursuant to Site 301.16(b), however, private property owners are left not knowing the dollar amount of this "price effect". This lack of dollar amount means that the Committee cannot make a finding on the impact of such price effects on private property within its public interest determination.

Lastly, the Applicant's late addition of a mitigation and dispute resolution process violates the parties' right to cross examine and vet evidence pursuant to RSA 541-A.

In conclusion, because the record does not contain the required information noted above, the Applicant's case is incomplete and it has not met its burden of proof. Importantly, the Committee is unable to make findings and determinations it is required to make pursuant to RSA 162-H and its administrative rules. For these reasons, the Committee is unable to issue the certificate the Applicant seeks.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of November, 2018, a copy of the foregoing brief has been sent by electronic mail to the electronic service list in this docket.

Marcia A. Brown

Dated: November 15, 2018 Marcia A. Brown, Esq.