

LAW OFFICES
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January 9, 2025

New Hampshire Public Utilities Commission
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301

Re : **PUC DE 24-087/SEC 2024-02 Public Comment**

Dear Honorable Chairman and Members of the New Hampshire Public Utilities Commission and New Hampshire Site Evaluation Committee:

Background

I represent Ms. Kristina Pastoriza and New Hampshire Senator Ruth Ward. My clients own a beautiful 400-acre property in Easton, New Hampshire. Client Pastoriza lives on the property and client Ward is an Eversource ratepayer.

The Pastoriza/Ward property is burdened by a powerline easement acquired in 1948 by Public Service Company of New Hampshire (Eversource) from my clients' predecessors in title. The easement was acquired to deliver electricity to homes, farms and businesses in northern rural New Hampshire.

The easement is occupied by the Eversource 115 kV powerline designated as X-178. X-178 is the subject of the Public Utilities Commission (PUC) and Site Evaluation Committee (SEC) dockets as captioned above. The line delivers electricity to substations that reduce voltage to 34.5 kV for retail sale in northern New Hampshire.

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This letter is filed on behalf of my clients as public comment pursuant to Puc 203.18 and Site 202.25.

Eversource Conceived, Engineered and Will Construct the Massive \$400,000,000 X-178 Project with Significant Impacts on My Clients' and Many Others' Property Without Federal or Any Review of Project Need, the Prudence of Project Costs or If the Project Will Result in Just and Reasonable Rates All as Required by the Federal Power Act (FPA)

The Eversource representations to the PUC and SEC that X-178 was subjected to federal review via the ISO-NE Planning Advisory Committee (PAC) and other entities is disingenuous. The Eversource PAC presentations did not constitute transmission planning review nor did the PAC process result in approval of X-178.

The PAC has no authority whatever to approve or disapprove regional transmission projects such as X-178. Large projects such as X-178 that result in federal jurisdictional rate charges for the sale of wholesale electricity in interstate commerce must be subjected to the formal FERC approved transmission planning process.

The ISO-NE PAC did not approve and could not approve the X-178 project for need, prudence of costs or if the project will result in just and reasonable rates.

The PAC is a stakeholder only forum intended to provide input to ISO-NE on the regional transmission planning process on matters such as needs assessments, a public policy transmission study process and an “asset condition list”. PAC membership includes generator owners, marketers, load serving entities, transmission owners (Eversource), government representatives, agencies, customers and consultants.

Rather than submitting X-178 to the FERC approved transmission planning process, Eversource presented the \$400,000,000.00 X-178 project to the PAC as an “asset condition” project with the claim that X-178 is exempt from the rigorous FERC planning process. Eversource presented the X-178 project in power point format with a broad, generalized representation of cost. The presentation had no differentiation of costs¹. The presentations were brief. The attendees were permitted to ask only a few questions. There is no evidentiary record. The PAC process was summary. No formal findings exist beyond the PAC meeting minutes.

“Asset condition” projects are not part of the ISO-NE transmission planning process. “Asset condition” projects are not scrutinized for necessity, cost prudence or if the project will result in just and reasonable rates.

Eversource did not comply with approved formula rate protocols as a predicate to charging New Hampshire ratepayers for the X-178 costs.

¹ The FERC approved formula rate protocols include facts re. the utility construction costs, capital cost rate of return, operation and maintenance costs, depreciation rate, taxes, other expenses and off-setting operating revenue from rent of the structures to telecommunication companies. No such facts were presented to the PAC by Eversource.

Eversource did not undergo any federal scrutiny of X-178 to assure ratepayers that the project will be efficient and cost effective, that the transmission rates charged to customers are just and reasonable and the project does not subject its customers to undue prejudice or disadvantage or unreasonable differences in rates, charges, service, facilities, or in any other respect or between classes of service as required by the FPA.

The cost of the X-178 project has and will be charged to Eversource ratepayers via an accounting device called “formula rates”. The formula rate allows Eversource to avoid commencing a formal rate case in which interested parties could challenge the need for the project and to test if the project costs will be just and reasonable.² The formula rate process and protocols are opaque and ponderous making it difficult, if not impossible, for ratepayers to challenge the timing or cost components of the transmission charges on their monthly bills.

The formula rate protocols were established by FERC to govern how utilities such as Eversource disclose project cost information to customers and are intended to ensure that ISO-NE satisfies its FPA obligation that transmission rates are just and reasonable.

**On May 13, 2024, FERC Issued Order 1920 Requiring Reform of the
Deficiencies in Regional and Local Transmission Planning to Ensure
That the Rates, Terms and Conditions for Transmission Service
Provided by Public Utilities Remain Just and Reasonable³**

² Ms. Pastoriza filed a challenge to the X-178 project in the New Hampshire Public Utilities Commission (NHPUC). The NHPUC refused to consider her challenge and dismissed her Petition without a hearing.

³ www.ferc.gov/media/e1-rm21-17-000.

On November 21, 2024, FERC Issued Order 1920-A That Confirmed the Order 1920 Conclusion That Substantial Evidence Exists That Regional Transmission Planning and Cost Allocation Requirements Are Unjust, Unreasonable and Unduly Discriminatory or Preferential⁴

FERC Order 1920 specifically addressed the conduct of ISO-NE with criticism of the billions of dollars of replacement projects that have avoided FPA required transmission planning scrutiny. The X-178 exemption from scrutiny is an example.

The “asset condition” exemption for large transmission projects for projects like X-178 is a manifest violation of the FPA and extant FERC Orders.

FERC Orders 1920 and 1920-A require that the exemption for “asset condition” projects be eliminated for large regional transmission be closed.

Orders 1920 and 1920-A require that transmission infrastructure will not result in unjust and unreasonable rates for customers. Regional grid operators such as ISO-NE are required by the Orders to provide an objective, public, evidence-based process in which ratepayers can participate in the planning for transmission infrastructure to ensure just and reasonable rates.

Finally

⁴ www.ferc.gov/media/e-1-rm-21-17-001

Eversource has willfully engaged in conduct calculated to avoid the transmission planning required by the FPA and FERC Orders.

Eversource is now pressing the PUC and the SEC for permissions to proceed with the X-178 project without the legally required transmission planning pursuant to the FPA and FERC Orders 1920 and 1920-A.

This Eversource conduct must be stopped.

Eversource Petitions in PUC DE 23-056 and Sec 2024-02 must be dismissed until such time as the X-178 project is subjected to proper FERC and ISO-NE transmission planning and project approval.

Respectfully submitted

/s/ Arthur B. Cunningham

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Certificate

This filing has been served pursuant to the Rules.

/s/ Arthur B. Cunningham

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