

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 22-027

NEW HAMPSHIRE TRANSMISSION, LLC

**Petition for Authority to Construct, Own, Operate, and Finance Additional
Transmission Equipment in Seabrook, New Hampshire**

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On April 11, 2022, New Hampshire Transmission, LLC (NHT) filed a petition for authority to construct, own, operate, and finance new electric energy transmission equipment and other appurtenant infrastructure, known as the Seabrook Capacitor Banks Project (Project), adjacent to the Seabrook Transmission Substation (STS) on the grounds of the Seabrook Nuclear Generating Station (SNGS) in Seabrook, New Hampshire. In support of its petition, NHT pre-filed the written direct testimony of Richard Allen, President of NHT, and other attachments. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at www.puc.nh.gov/regulatory/Docketbk/2022/22-027.html.

I. BACKGROUND AND PROCEDURAL HISTORY

The STS connects the SNGS, one of the largest electric generation resources in New England, with three major 345 kilovolt (kV) transmission lines. Petition (Pet.), ¶ 2. It is an essential part of the Independent System Operator-New England (ISO-NE) transmission network. *Id.*

NHT's predecessor in interest, Florida Power & Light Company (FPL), acquired an 88.23 percent ownership interest in the STS from an affiliate pursuant to a settlement agreement that the Commission approved in Order No. 24,321 (May 7, 2004), issued in

Docket No. DE 03-186 (Settlement Agreement). In that order, the Commission determined that it would be consistent with the public good for FPL to be granted authority to operate as a public utility under New Hampshire law for the purpose of owning and operating the STS, subject to the conditions contained in the Settlement Agreement. *See id.* at 6-9. One of these conditions required FPL to comply with the provisions of RSA chapter 369 when seeking financing for the STS. *See* Settlement Agreement (attached to Pet. as Appendix 1), Subsection II.1. The Commission noted that, although the Settlement Agreement did not preclude FPL from expanding its New Hampshire operations beyond the STS, “the [Settlement Agreement] makes it clear that no such authority is being granted or acceded to here.” Order No. 24,321 at 8-9.

In 2010, the Commission authorized FPL to transfer its 88.23 percent ownership¹ interest in the STS to NHT, a wholly owned subsidiary of NextEra Energy Transmission, LLC, in Docket No. DE 10-042. *See* Order No. 25,105 (May 26, 2010). The Commission found that NHT had the requisite managerial, technical, and financial capabilities to own and operate the STS under RSA 374:22, and it determined that it was in the public good to grant NHT the authority to operate as a public utility in New Hampshire. *Id.* at 7-8. In Order No. 25,105, the Commission stated that it would continue to regulate NHT pursuant to the terms of the Settlement Agreement, noting that NHT had agreed to assume the rights and responsibilities of FPL under the Settlement Agreement. *Id.* at 7.

NHT sought the Commission’s authorization to enter into a loan agreement with NextEra Capital Holdings, Inc., NHT’s lender and indirect holding company, in Docket No. DE 18-171. Order No. 26,204, at 1 (December 21, 2018). Among other things, the financing was intended to be used for the repair of the STS’s aging infrastructure. *Id.*

¹ Massachusetts Municipal Wholesale Electric Company, Taunton Municipal Lighting Plant, and Hudson Light & Power Department currently own the remaining interest in the STS. Pet., ¶ 1.

at 1-2. The Commission authorized NHT to issue long-term, secured debt instruments, in an aggregate principal amount not to exceed \$59 million, over a two-year period from January 1, 2019 through January 1, 2021. *Id.* at 2, 4. The Commission subsequently granted NHT's request to extend the term of its loan agreement with NextEra Capital Holdings, Inc. from January 1, 2021 to January 1, 2023. *See* Order No. 26,432 (December 17, 2020).

On April 1, 2022, NHT filed a petition with the New Hampshire Site Evaluation Committee (SEC) in SEC Docket No. 2021-05, in which it requested the SEC to exempt the Project from approval and certificate requirements pursuant to RSA 162-H:4, IV. Alternatively, NHT sought a declaratory ruling that the Project did not constitute a "sizeable addition" to the STS, for which a certificate to construct an energy facility was required under RSA 162-H:5, I, or expedited review of its application for a Certificate of Site and Facility.

According to Mr. Allen's pre-filed testimony in the above-captioned docket, ISO-NE selected the Project as one element of ISO-NE's preferred solution to address a reliability need identified in its New Hampshire 2029 Solutions Study. *Pet.*, Appendix 3, at 3. NHT stated in the petition that, based on its reading of the Settlement Agreement and RSA 374:22 and RSA 374:26, to proceed with the Project, it required the Commission's approval to construct, own, and operate the additional transmission facilities in New Hampshire that would result from the Project. *Pet.*, ¶ 3. It requested the Commission to find that it would be in the public good for NHT to be authorized as a public utility to construct, own, and operate the Project. *See id.*, ¶ 11.

In addition, NHT requested the Commission to further extend the term of the loan agreement approved in Docket No. DE 18-171 to January 1, 2024 to accommodate construction of the Project. *Pet.*, ¶s 14-15. NHT maintained that there are sufficient

funds from this approved financing to fund the Project, which is presently estimated to cost \$8.9 million. *Id.*, ¶s 5 and 15. NHT requested the Commission to authorize it to pay for the Project from these funds. *Id.*, ¶ 15.

NHT requested a final order from the Commission in this proceeding no later than September 1, 2022, Pet., ¶ 7. On June 1, 2022, NHT filed a letter asking the Commission to schedule a prehearing conference, so that a procedural schedule could be established for this docket.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether NHT's request for authorization to construct, own, and operate the Project requires the Commission's approval under the Settlement Agreement and/or Order No. 24,321, RSA 374:22, and RSA 374:26, and if so, whether NHT's construction, ownership, and operation of the Project would be for the public good or otherwise warranted under the applicable standards; and whether NHT's request to modify the Commission's orders in Docket No. DE 18-171 to provide financing for the Project and to extend the term of the loan agreement requires Commission approval under RSA 369:1 or modification of prior orders pursuant to RSA 365:28, and if so, whether NHT's request would be for the public good or otherwise warranted under the applicable standards. Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with

the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A; RSA 374:22, RSA 374:26, RSA 369:1, RSA 365:28, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on July 7, 2022, at 1:30 p.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, NHT shall make appropriate personnel available for the parties, to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is,

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to NHT and any other parties on the service list, on or before June 24, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before July 5, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at

<https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that NHT shall refile the testimony of Richard Allen with sequential page numbers, pursuant to New Hampshire Code of Administrative Rules, Puc 203.04(a)(3); and it is


FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or

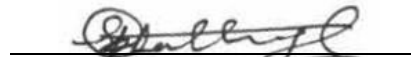
ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

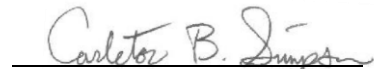
FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, NHT shall notify all entities and individuals desiring to be heard at this hearing by publishing a summary of this order of notice (attached) no later than June 18, 2022, in a newspaper with general circulation in those portions of the state in which the Project is proposed to operate, such publication to be documented by affidavit filed with the Commission on or before June 30, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this eighth day of June, 2022.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket# : 22-027

Printed: 6/8/2022

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