

**COMMONWEALTH OF MASSACHUSETTS  
ENERGY FACILITIES SITING BOARD**

|                                                  |   |            |
|--------------------------------------------------|---|------------|
| Petition of Hingham Municipal Lighting Plant     | ) |            |
| Pursuant to G.L. c. 164, § 69J for Approval t to | ) |            |
| Construct a New Underground 115 kV Electric      | ) |            |
| Transmission Line in Weymouth and Hingham,       | ) | EFSB 24-01 |
| a New Substation in Hingham, and a New Tap       | ) |            |
| Station in Weymouth, Massachusetts               | ) |            |

|                                                |   |               |
|------------------------------------------------|---|---------------|
| Joint Petition of Hingham Municipal Lighting   | ) |               |
| Plant and NSTAR Electric Company d/b/a         | ) |               |
| Eversource Energy Pursuant to G.L. c. 40A, § 3 | ) |               |
| for Individual and Comprehensive Exemptions    | ) | D.P.U. 24-135 |
| from the Zoning By-law of the Town of          | ) |               |
| Hingham and the Zoning Ordinance of the Town   | ) |               |
| of Weymouth, Massachusetts                     | ) |               |

**INITIAL BRIEF OF  
NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY**

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## TABLE OF CONTENTS

|             |                                                                                                                                               |           |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>I.</b>   | <b>INTRODUCTION.....</b>                                                                                                                      | <b>1</b>  |
| <b>II.</b>  | <b>PROCEDURAL HISTORY .....</b>                                                                                                               | <b>2</b>  |
| <b>III.</b> | <b>PROJECT SUMMARY.....</b>                                                                                                                   | <b>4</b>  |
|             | A. Agency and Community Outreach.....                                                                                                         | 7         |
|             | B. Project Construction Schedule and Costs .....                                                                                              | 9         |
| <b>IV.</b>  | <b>STANDARD OF REVIEW .....</b>                                                                                                               | <b>10</b> |
| <b>V.</b>   | <b>THE NEW TAP STATION SATISFIES THE STATUTORY STANDARDS FOR<br/>THE GRANT OF INDIVIDUAL AND COMPREHENSIVE ZONING<br/>EXEMPTIONS.....</b>     | <b>11</b> |
|             | A. Eversource Is a Public Service Corporation. ....                                                                                           | 11        |
|             | B. The Project Is Reasonably Necessary for the Public Convenience and Welfare..                                                               | 12        |
|             | 1. The Project Is Needed to Ensure System Reliability Under Current Conditions<br>in Hingham. ....                                            | 13        |
|             | 2. Alternatives to the Project Have Been Fully Evaluated, Including Potential<br>Site Alternatives for the New Tap Station.....               | 13        |
|             | 3. The Company Has Appropriately Avoided or Minimized Environmental<br>Impacts Due to Construction and Operation of the New Tap Station. .... | 14        |
|             | C. The Project Requires Individual and Comprehensive Zoning Exemptions.....                                                                   | 24        |
|             | 1. Standard of Review .....                                                                                                                   | 24        |
|             | 2. Eversource and HMLP Have Consulted with Weymouth Officials on Needed<br>Zoning Relief.....                                                 | 25        |
|             | 3. The Project Requires Individual Exemptions from the Operation of the<br>Weymouth Zoning Ordinance. ....                                    | 26        |
|             | 4. The Project Requires Comprehensive Zoning Exemptions.....                                                                                  | 33        |
|             | D. Conclusion on Zoning Exemptions.....                                                                                                       | 37        |
| <b>VI.</b>  | <b>CONCLUSION .....</b>                                                                                                                       | <b>38</b> |

## **I. INTRODUCTION**

On November 13, 2024, pursuant to G.L. c. 164, § 69J, Hingham Municipal Lighting Plant (“HMLP”) filed with the Energy Facilities Siting Board (“Siting Board”) a petition (the “Section 69J Petition”) to construct a (1) new, approximately 3.2-mile underground 115 kilovolt (“kV”) transmission line (“New Line”) in the Town of Weymouth (“Weymouth”) and the Town of Hingham (“Hingham”); (2) a new enclosed substation at a transfer station site in Hingham (“New Substation”); and (3) a new tap station within an existing NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) transmission corridor in Weymouth that would be constructed, owned, and operated by Eversource (“New Tap Station”) (together the “HMLP Reliability Project” or “Project”). Exh. HE-3.

Also on November 13, 2024, pursuant to the provisions of G.L. c. 40A, § 3, HMLP and Eversource jointly filed with the Department of Public Utilities (“Department”) a joint petition (“Zoning Petition”) seeking: (1) individual and comprehensive zoning exemptions from the operation of the Town of Hingham Zoning By-Law (the “Hingham Zoning By-Law”) in connection with the construction by HMLP of the New Substation in Hingham; and (2) individual and comprehensive zoning exemptions from the operation of Zoning Chapter 120, Town of Weymouth General Code (the “Weymouth Zoning Ordinance”), in connection with the construction by Eversource of the New Tap Station within an Eversource-owned transmission corridor at 0 Broad Street, Parcel number 20-220-1. Exh. HE-2. Both the Zoning Petition and the Section 69J Petition are supported by the Analysis to Support Petitions in front of the Energy Facilities Siting Board (“Analysis”). Exh. HE-1.

As discussed in more detail below and in HMLP’s initial brief, because the Project complies with all applicable standards of the Siting Board and the Department, the Zoning Petition

should be approved. In this initial brief, the Company demonstrates that the record supports approval of the Company's request for individual and comprehensive zoning exemptions from the operation of the Weymouth Zoning Ordinance in connection with construction of the New Tap Station.<sup>1</sup>

## **II. PROCEDURAL HISTORY**

On November 21, 2024, the Department referred the Zoning Petition (docketed as D.P.U. 24-135) to the Siting Board for review and consolidated the Zoning Petition with the Section 69J Petition (docketed as EFSB 24-01) for hearing. Hingham Municipal Lighting Plant and NSTAR Electric Company d/b/a Eversource Energy, EFSB 24-01/D.P.U. 24-135, Referral and Consolidation Order (Nov. 21, 2024). The Siting Board conducted a single adjudicatory proceeding and developed a single evidentiary record for the two consolidated petitions.

On March 3, 2025, the Siting Board issued a Notice of Adjudication and Public Comment Hearing (the "Notice") that established two public comment hearing dates of March 25 and March 31, 2025 and a deadline of April 14, 2025 by which public comments must be submitted and by which petitions to intervene, or for limited-participant status in the proceeding, must also be submitted. As directed by the Siting Board, HMLP submitted a compliance filing on March 25, 2025 stating that it had published the Notice in the *Boston Herald* and the *Patriot Ledger*; provided copies of the Notice to the town clerks of Hingham and Weymouth; provided copies of the Section 69J Petition and Zoning Petition to the Weymouth Town Clerk, Hingham Town Clerk, the Hingham Public Library, the Fogg Public Library (South Weymouth), and the Tufts Public Library

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<sup>1</sup> HMLP addresses in its initial brief how the record supports approval of its request for individual and comprehensive zoning exemptions from the operation of the Hingham Zoning By-Law in connection with construction of the New Substation. In addition, HMLP demonstrates in its initial brief that the Project complies with all applicable standards of the Siting Board regarding the Section 69J Petition and should therefore be approved. Eversource joins HMLP in its requests for approvals from the Siting Board.

(Weymouth); served copies of the Notice on all owners and to all U.S. Mail addresses that abut the Project, that lie within 300 feet of the New Line, and that lie within a quarter mile of the New Tap Station and New Substation, as specifically indicated on the Notice; provided the Notice to the Planning Board, Town Administrator, Select Board, Mayor, Town Council, Zoning Board of Appeals, Department of Public Works, and Conservation Commission for both Weymouth and Hingham, as applicable; and provided the Notice to all municipal office buildings, public libraries, senior centers, and houses of worship within one mile of either the New Tap Station and New Substation or within one-quarter mile within the New Line; and posted the Notice on the Project website for both HMLP and Eversource.

On March 25 and 31, 2025, pursuant to the Notice in this proceeding, the Siting Board held public comment hearings, respectively, at the Chapman Middle School Theater in Weymouth and at the Hingham Town Hall, and via Zoom at both public hearings for remote attendees. The Siting Board thereafter received timely petitions to intervene from Weymouth, Karen Rund, and Robert C. and Naomi B. Preble (the “Prebles”). In addition, petitions for limited-participant status were submitted by Don and Judy DiCristofaro (the “DiCristofaros”), Judy Kelley, and Susan and Larry Wetzel (the “Wetzels”).

On July 2, 2025, the Siting Board granted the petitions to intervene by Weymouth, Karen Rund, and the Prebles, pursuant to G.L. c. 30A, § 10. Hingham Municipal Lighting Plant and NSTAR Electric Company d/b/a Eversource Energy, EFSB 24-01/D.P.U. 24-135, Ruling on Petitions to Intervene and On Petitions for Limited Participant Status at 4-5 (July 2, 2025). On that date, the Siting Board also granted petitions for limited-participant status submitted by the DiCristofaros, Judy Kelley, and the Wetzels. Id. at 5-6.

On July 11, 2025, the Siting Board held a procedural conference with all parties and limited participants to discuss a schedule for this proceeding. On July 24, 2025, the Siting Board issued a procedural schedule for milestones occurring after that date, including several rounds of staff and intervenor discovery, opportunity for intervenor pre-filed testimony, evidentiary hearings and briefing.

The Siting Board held two days of evidentiary hearings, beginning on September 29, 2025, and ending on September 30, 2025. Eversource and HMLP presented a total of 11 witnesses for cross examination by the Siting Board staff, Weymouth, the Prebles, and Ms. Rund:

- 1) John Gerety, Eversource Energy, Project Manager
- 2) Moesha Outar, Eversource Energy, Project Engagement, Transmission
- 3) Matthew Watkins, Watkins Strategies LLC, President
- 4) Christopher Newhall, Eversource Energy, Supervisor, Licensing and Permitting
- 5) Thomas Morahan, HMLP, General Manager
- 6) PJ O’Sullivan, Rasky Partners Inc., Senior Advisor
- 7) Tracy Adamski, Tighe & Bond Inc., Vice President
- 8) Thomas Converse, LIG Consultants PC, President and Principal Engineer
- 9) Charles Salamone, Cape Power Systems Consulting
- 10) Christopher Long, Gradient, Principal
- 11) Mark Cordeiro, Power Lines Models Inc., Principal

Approximately 107 exhibits were entered into the evidentiary record, including the Zoning Petition, the 69J Petition, Analysis, responses to Information Requests (“IRs”), and responses to Record Requests (“RRs”).

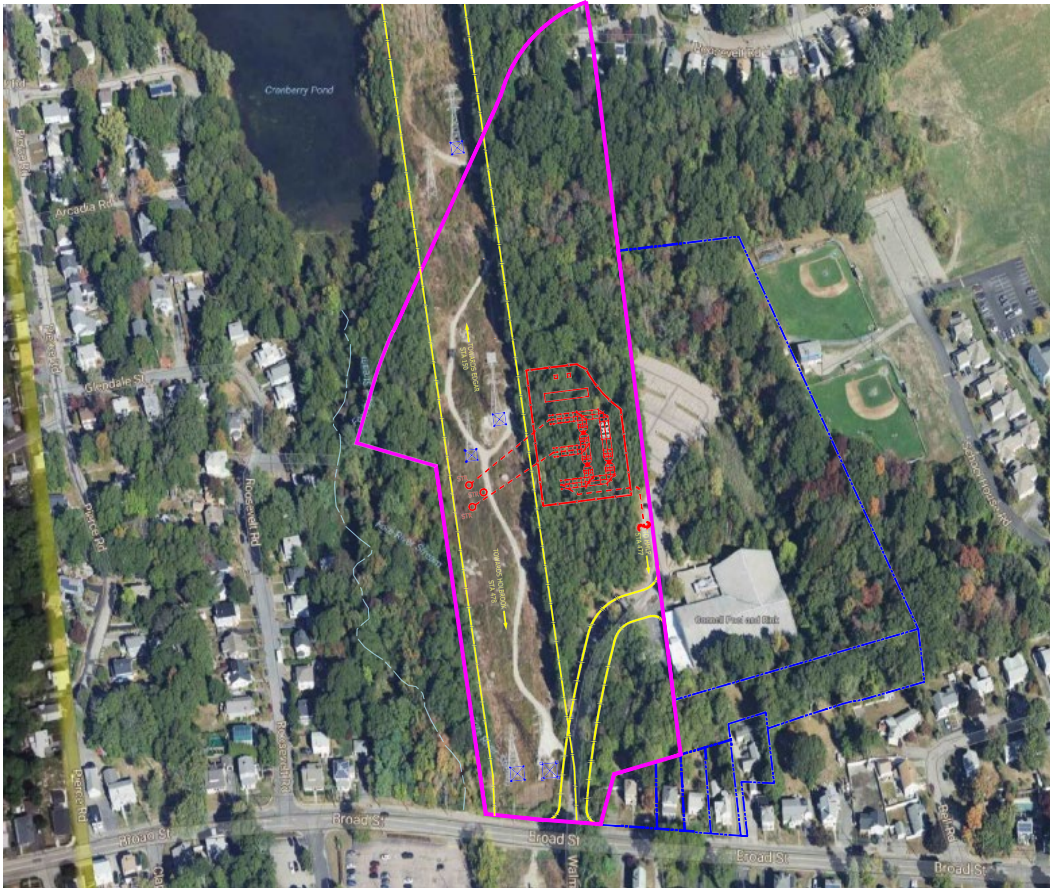
### **III. PROJECT SUMMARY**

Overall, the Project includes three primary components: (1) the New Line, a 3.2-mile underground 115 kV transmission line in Weymouth and Hingham; (2) the New Substation, a new enclosed substation at the transfer station site (0 Old Hobart Street, Parcel number 106-0-4) in Hingham; and (3) the New Tap Station, which would be located within an Eversource-owned transmission corridor (0 Broad Street, Parcel number 20-220-1) in Weymouth that would be owned

and operated by Eversource. Exh. HE-1, at 1-1. Because the Company is constructing and operating the New Tap Station, this brief focuses on zoning exemptions required for the New Tap Station component of the Project, while HMLP provides the details regarding the New Line and New Substation in its brief.

The New Tap Station is proposed to be built on an Eversource-owned transmission corridor located off Broad Street in Weymouth. Exh. HE-1, at 1-1 to 1-2; Exh. HE-2, at 6-7. Eversource will construct, own, and operate the New Tap Station. Exh. HE-1, at 1-1; Exh. HE-2, at 6-7. More specifically, the New Tap Station is proposed to be located along Eversource's existing transmission ROW property off Broad Street in Weymouth, on a 11.6-acre property owned by Eversource ("New Tap Station Site"). Exh. HE-1, at 5-9. The New Tap Station Site is bordered by Eversource transmission ROW, the Connell Swimming Pool and Skating Rink ("Connell Pool and Rink"), residences, undeveloped land owned by National Grid, and Broad Street. Id. at 5-9 to 5-12. An aerial view of the New Tap Station Site is shown in Figure 1, below.

**Figure 1. New Tap Station Site**



Id. at 5-10. In addition, a detailed layout of the New Tap Station is depicted in Figure 5-8 of the Section 69J Petition and is included as Exhibit F to the Zoning Petition, as updated in a September 29, 2025 submission. Exh. HE-1, at 5-11; Exh. HE-2, Exh. F. The New Tap Station will include the following activities and equipment:

- Site clearing and grading within a defined limit of disturbance;
- Upgrading of the existing gravel access road to support construction equipment;
- Installation of stormwater management best management practices (“BMPs”);
- Installation of air-insulated switchgear (“AIS”);
- Installation of four shielding masts at 85 feet each within the security fence line;
- Construction of an electrical control enclosure;
- Installation of security fencing;
- Spreading of crushed stone within the security fence line;
- Installation of three electric transition structures (two for the incoming 115 kV transmission line and one for the new line to Hobart Substation);
- Installation of one distribution tangent pole;

- Installation of bathroom facilities;
- Construction of associated parking and a new vehicular access drive; and
- Installation of vegetated screening.

Exh. HE-1, at 5-9; Tr. 1, at 26. The Company will construct and utilize comprehensive security measures for securing the New Tap Station from unauthorized access. Exh. EFSB-S-5.

#### **A. Agency and Community Outreach**

The Company and HMLP have collaborated on outreach efforts and have actively consulted with officials in both Weymouth and Hingham about the Project. Exh. HE-1, at 1-9 to 1-12; Exh. HE-2, at 7-11. This process began in 2020 and, as of the date of filing the Zoning Petition, has included over 32 stakeholder meetings concerning the Project. Exh. HE-1, at 1-9; Exh. HE-2, at 7.

Company and HMLP representatives have met on numerous occasions with municipal officials, residents, business owners, and other stakeholders to discuss the Project overall and potential sites for the New Tap Station, including the need to potentially seek zoning relief for the New Tap Station in Weymouth. Exh. HE-1, at 1-11 to 1-12. The Company summarized its outreach communications with municipal officials and other stakeholders in Table 1 of the Zoning Petition. Exh. HE-2, at 7-10. Specifically, as to the scope of the Project in Weymouth, including the New Tap Station, between April 2021 and March 2024, meetings with Weymouth officials have included the Mayor's Office, the Weymouth Planning Director, the Weymouth Conservation Commission, the Weymouth Department of Public Works, and various members of the Town Council. Exh. HE-1, at 1-11 to 1-12. Overall, as of the date of filing the Zoning Petition, representatives of the Company and/or HMLP have met with Weymouth officials on 10 occasions. Id. at 1-11. The Company will continue its outreach efforts with Weymouth municipal officials through permitting and construction of the Project. Id. at 1-12.

The Company and HMLP have both hosted open houses to introduce the Project to the broader community, including the proposed New Tap Station in Weymouth. Exh. HE-1, at 1-9 to 1-10. In particular, the Company itself hosted multiple open houses and outreach events to further engage the community in Weymouth about the New Tap Station. On January 25 and 26, 2024, Eversource — with HMLP representatives in attendance — held two public outreach events at Union Towers in Weymouth, which is located near the proposed New Tap Station Site. Id. at 1-10. In addition to engaging the broader public, Union Towers includes over 150 units of affordable housing for elderly and people over 50 with disabilities, some of whom primarily speak foreign languages. See id. On March 19, 2024, Eversource also hosted an evening community open house event at the Crossroads Church in Weymouth. Id. Two weeks prior to the community open house event, Eversource’s Project Engagement team began advertising this event to the community by coordinating a pop-up event at Jimmy’s Diner on Broad Street in Weymouth to create awareness for the event as well as engaging with diners during busy times and handing out invitations and fielding questions about the Project. Id. Eversource’s Project Engagement team also completed door-to-door outreach to nearby residents and businesses and brought invitations to nearby community gathering spaces to encourage attendance at the community open house event. Id. Finally, Eversource also mailed invitations to the community open house event, in addition to sending invitations to the community open house event to local elected officials. Exh. HE-1, at 1-10.

During its outreach sessions, the Company utilized interpreters as appropriate. Exh. HE-1, at 1-10. Project information handouts were also available in English, Portuguese, Traditional Chinese, and Spanish. Id. The event was also promoted on the Project website ([www.HEIRP.com](http://www.HEIRP.com)) and HMLP’s social media channels. Id.

Since submitting the Zoning Petition, HMLP has continued to work with Eversource on coordinating project outreach plans and activities. As a municipal light plant, HMLP does not have the outreach resources and expertise of a large investor-owned utility like Eversource, and thus, HMLP has and will continue to benefit significantly from Eversource's experience and best practices for project outreach. Exh. EFSB-G-2; Exh. EFSB-G-5. In addition, in coordination with Eversource, HMLP will develop a community outreach plan that highlights outreach communication measures and informs the towns of Weymouth and Hingham as well as the public and other stakeholders regarding Project construction and what to expect. Exh. EFSB-G-2; Tr. 1, at 29-33. Eversource will also develop its own community outreach plan in relation to construction activities at the New Tap Station. Tr. 1, at 33-34.

#### **B. Project Construction Schedule and Costs**

The Company estimates that it will take approximately 18 months to complete construction of the New Tap Station once construction commences. Exh. HE-2, at 29; Exh. Preb-G-1. More details about construction of the New Tap Station, including potential environmental impacts, are discussed in Section V.B.3. HMLP and the Company will obtain all required permits for construction of the Project. Exh. HE-2, at 58-59; Exh. EFSB-G-6.

As documented in the evidentiary record, the current cost estimate for the New Substation is approximately \$18.9 million (2024 dollars), and the estimate for the New Tap Station is \$38.1 million (2024 dollars). Exh. HE-1, at 1-8. The cost estimate for the overall Project, including the New Line, which is estimated to cost \$47.7 million, is approximately \$104.7 million (-25%/+50%, 2024 dollars).<sup>2</sup> Id. The overall cost estimate includes design and engineering, procurement, supply

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<sup>2</sup> At the evidentiary hearing, HMLP's witness indicated that project costs would be updated with Hingham by the end of the year. Tr. 1, at 150.

of materials and equipment, construction and equipment installation, civil/site construction, pre-commissioning and commissioning and start-up. Exh. HE-2, at 7.

All project costs would ultimately be borne by HMLP customers, and not Eversource's customers, including costs to construct and operate and maintain the New Tap Station, which, as indicated, will be constructed, owned, and operated by Eversource. Exh. EFSB-C-3; Exh. EFSB-C-4; Exh. EFSB-C-5; Exh. EFSB-C-6; see also Tr. 1, at 115-18, 154-55. The method for payment of costs and expenses for construction of the New Tap Station has been memorialized by Eversource and HMLP in a Facilities Support Agreement dated January 26, 2024. Exh. EFSB-C-7(1); see also Tr. 1, at 154-55.

#### **IV. STANDARD OF REVIEW**

G.L. c. 40A, § 3 provides, in relevant part, that:

Lands or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or bylaw if, upon petition of the corporation, the [Siting Board] shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.

A petitioner seeking exemption from a local zoning bylaw under G.L. c. 40A, § 3 must meet three criteria. First, the petitioner must qualify as a public service corporation. Save the Bay, Inc. v. Department of Public Utilities, 366 Mass. 667 (1975) (“Save the Bay”); NSTAR Electric Company d/b/a Eversource Energy, EFSB 19-06/D.P.U. 19-142/19-143, at 98 (2022) (“Mid-Cape Reliability Project”); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 18-155, at 11 (2020) (“Eversource Oak Bluffs”); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 18-21, at 4 (2019) (“Eversource Westfield”). Second, the petitioner must establish that it requires the requested exemptions from the zoning ordinance or bylaw. Mid-Cape Reliability Project at 98; Eversource Oak Bluffs at 11; Eversource Westfield at 6-7. Third, the petitioner must demonstrate

that its present or proposed use of the land or structure is reasonably necessary for the public convenience or welfare. Mid-Cape Reliability Project at 98; Eversource Oak Bluffs at 11; Eversource Westfield at 5-6.

**V. THE NEW TAP STATION SATISFIES THE STATUTORY STANDARDS FOR THE GRANT OF INDIVIDUAL AND COMPREHENSIVE ZONING EXEMPTIONS**

Pursuant to G.L. c. 40A, § 3, Eversource and HMLP filed a joint petition that included a request for individual and comprehensive zoning exemptions from the operation of the Weymouth Zoning Ordinance in connection with the construction by Eversource of the New Tap Station within a Company-owned transmission corridor at 0 Broad Street, Parcel number 20-220-1. As set forth in more detail below, in accordance with Siting Board standards, to obtain exemptions from the Weymouth Zoning Ordinance, the Company must: (1) qualify as a public service corporation; (2) demonstrate that its present or proposed use of the land or structure is reasonably necessary for the public convenience or welfare; and (3) establish that it requires exemptions from the relevant zoning enactment. The record evidence conclusively demonstrates that Eversource satisfies all criteria for the requested exemptions.

**A. Eversource Is a Public Service Corporation.**

A “public service corporation” is defined in relevant part in G.L. c. 40A, § 1A, as amended by St. 2024, c. 239, § 36, as:

[A] corporation or other entity duly qualified to conduct business in the commonwealth that owns or operates or proposes to own or operate assets or facilities to provide electricity, gas, telecommunications, cable, water or other similar services of public need or convenience to the public directly or indirectly, including, but not limited to, an entity that owns or operates or proposes to own or operate electricity generation, storage, transmission or distribution facilities, or natural gas facilities including pipelines, and manufacturing and storage facilities; rates or proposes to own or operate facilities necessary for its operations.

Eversource operates New England's largest energy delivery system. The Company transmits and delivers energy to approximately 3.7 million electric and natural gas customers in Connecticut, Massachusetts, and New Hampshire. In Massachusetts, Eversource's electric service territory includes 140 municipalities covering an area of approximately 3,192 square miles. Exh. HE-1, at 1-12; see also Exh. HE-2, at 13. Eversource is an "electric company" as defined in G.L. c. 164, § 1, meaning, it is "a corporation organized under the laws of the commonwealth for the purpose of . . . selling, transmitting, distributing, transmitting and selling, or distributing and selling, electricity within the commonwealth." As such, because Eversource is an electric company that owns and operates facilities to provide electric service, Eversource qualifies as a public service corporation for the purposes of G.L. c. 40A, § 3 and, therefore, is entitled to seek zoning exemptions pursuant to G.L. c. 40A, § 3. See Mid-Cape Reliability Project at 100; see also NSTAR Electric Company d/b/a Eversource Energy, EFSB 17-02/D.P.U. 17-82/17-83, at 194 (2019).

**B. The Project Is Reasonably Necessary for the Public Convenience and Welfare.**

When determining whether a petitioner's present or proposed use is reasonably necessary for the public convenience or welfare, the Department and the Siting Board balance the interests of the general public against the local interest, and determine whether the present or proposed use of the land or structures is reasonably necessary for the convenience or welfare of the public. Mid-Cape Reliability Project at 100, citing Save the Bay, 366 Mass. at 680; Town of Truro v. Department of Public Utilities, 365 Mass. 407, 410-411 (1974); Eversource Oak Bluffs at 12-13; Eversource Westfield at 5. Specifically, the Department and the Siting Board undertake "'a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [an] examination of the local and individual interests which might be affected.'" Mid-Cape Reliability Project at 100, quoting New York Central Railroad v. Department of Public Utilities,

347 Mass. 586, 592 (1964); Eversource Oak Bluffs at 12-13; Eversource Westfield at 5. When reviewing a petition for a zoning exemption, the Department and the Siting Board consider the public effects of the requested exemption in the state as a whole and upon the territory served by the petitioner. Mid-Cape Reliability Project at 100, citing Save the Bay, 366 Mass. at 685; New York Central Railroad, 347 Mass. at 592; Eversource Oak Bluffs at 13.

Therefore, when making a determination as to whether a petitioner's present or proposed use is reasonably necessary for the public convenience or welfare, the Department and the Siting Board examine: (1) the present or proposed use and any alternatives or alternative sites identified; (2) the need for, or public benefits of, the present or proposed use; and (3) the environmental impacts or any other impacts of the present or proposed use. Mid-Cape Reliability Project at 100-101; Eversource Westfield at 58. The record in this proceeding conclusively demonstrates that the Project is reasonably necessary for the public convenience and welfare.

1. The Project Is Needed to Ensure System Reliability Under Current Conditions in Hingham.

As described in HMLP's initial brief, the evidence in the proceeding demonstrates that the Project is needed to ensure reliable electric service for customers of HMLP, which provides electricity to approximately 10,500 metered customers, including approximately 24,000 residents of Hingham, as well as several medical facilities, schools, municipal offices, and public safety buildings within Hingham. Exh. HE-1, at 1-8; Exh. HE-2, at 15. Eversource adopts and joins Section V.A. of the HMLP initial brief on this issue.

2. Alternatives to the Project Have Been Fully Evaluated, Including Potential Site Alternatives for the New Tap Station.

As described in detail in the Analysis and in the initial brief submitted by HMLP, HMLP evaluated potential alternatives to the Project that could address the various needs for the Project, and HMLP has considered the complexity, cost, and time required to implement them, including

alternative technologies, locations and configurations. Exh. HE-1, Sections 3 and 4. Eversource adopts and joins Sections V.B. and V.C. of the HMLP initial brief on this issue.

3. The Company Has Appropriately Avoided or Minimized Environmental Impacts Due to Construction and Operation of the New Tap Station.

Eversource and HMLP have conducted detailed analyses of potential environmental impacts of the proposed New Tap Station, identified those impacts, and proposed measures to minimize impacts associated with the construction and operation of the New Tap Station as appropriate.

- Construction: Work to construct the New Tap Station will take place over an approximately 18-month period. See Exh. HE-2, at 29; Exh. EFSB-G-1(1). The construction will involve soil erosion and sediment control BMPs; site clearing and grading within a defined limit of disturbance; upgrade of the existing gravel access road to support construction equipment; stormwater management BMPs consisting of a sediment forebay and stormwater basin; installation of AIS; construction of an electrical control house; installation of security fencing; spreading of crushed stone within the security fence line; installation of three electric transition structures (two for the incoming 115 kV transmission line and one for the new line to New Substation); 210 feet of new transmission interconnections between the existing transmission lines and the New Tap Station; installation of one distribution tangent pole; four shielding masts (85 feet tall); construction of associated parking; and installation of vegetated screening. Exh. HE-1, at 5-9. Eversource will keep Weymouth and neighbors apprised of the New Tap Station construction staging area plans. Exh. Preb-G-1.

Weymouth does not have limitations on construction hours and does not have a winter work moratorium; construction hours will be developed directly through coordination with Weymouth. Exh. HE-1, at 5-29; Exh. EFSB-CM-5. All construction will be performed in a

manner that limits impact to the area to the maximum extent practical. Exh. HE-1, at 5-29. Sound levels from typical construction equipment that would be used during construction range from about 75 dBA to 90 dBA at a distance of 50 feet from the construction activity. Exh. EFSB-NO-2; Exh. RR-EFSB-9.

- Land Use. The proposed New Tap Station is located on an approximate 11.6-acre Eversource-owned parcel of land. Exh. HE-1, at 5-12. The landscape consists of various sloping topography and areas of exposed surficial ledge. Id. An Eversource transmission ROW, which currently includes existing transmission lines and access roads, occupies approximately half of the site. Id. The vegetation within this ROW is maintained in compliance with Eversource's Transmission Vegetation Management Plan. Id. The remainder of the site is populated with a mixed hardwood forest. Id.

The New Tap Station Site is bordered by Eversource transmission ROW, the Connell Pool and Rink, residences, undeveloped land owned by National Grid, and Broad Street. Exh. HE-1, at 5-12. The total area of land disturbance associated with the New Tap Station will be approximately 2.5 acres, including approximately 2,300 square feet of impervious surface. Id. Most of the New Tap Station Site will utilize washed pea or crushed stone to promote stormwater infiltration and which, in combination with the stone color, will minimize any heat island effect. Exh. EFSB-L-3. Nearby land uses are predominantly single-family residential, in addition to certain industrial and recreational uses. Exh. HE-1, at 5-12. A church, Crossroads Worship Center, is located southeast of the site, across Broad Street. Id.

The ROW will continue to be used for electric transmission purposes. Id. Upon completion of construction, the site not otherwise used for the New Tap Station and associated

appurtenances will be restored by stabilizing disturbed soils and landscaped in a manner appropriate to the surroundings/neighborhood. Id.

- Wetlands and Waterbodies. The proposed New Tap Station is located within an existing transmission corridor. Exh. HE-1, at 5-12; Exh. HE-2, at 31. Wetland resource areas were delineated on August 2, 2022. Exh. HE-1, at 5-12; Exh. HE-2, at 31. Wetland boundaries were established in accordance with the provisions of the Massachusetts Wetlands Protection Act, the Weymouth Wetlands Protection Ordinance (Chapter 7, Section 301, Weymouth Code of Ordinances) and its implementing regulations, and the U.S. Army Corps of Engineers methodology based on the plant community, soils, hydrology, and other contributing factors, including topography. Exh. HE-1, at 5-12; Exh. HE-2, at 31; Exh. EFSB-W-2. There is an unnamed waterway located to the north and east of the site that is shown as perennial on the latest USGS map. Bordering Vegetated Wetland (“BVW”) was delineated adjacent to the unnamed waterway. Exh. HE-1, at 5-12. The New Tap Station Site is primarily forested, and vegetation removal will be required prior to grading of the site. Id. Vegetation removal is proposed within the outer 100-foot Buffer Zone to the BVW and the outer 200-foot Riverfront Area to the unnamed waterway. Exh. HE-1, at 5-12; Exh. HE-2, at 31. The proposed vegetation removal within the Riverfront Area is limited to 4,000 square feet of impact. Exh. HE-1, at 5-12; Exh. HE-2, at 31. This impact is unavoidable to provide for a safe and secure perimeter to the New Tap Station facility. Exh. HE-1, at 5-12; Exh. HE-2, at 31-32. In the Riverfront Area, selective tree trimming and removal will occur to meet safety and security standards and minimize disturbance to the resource area. Exh. HE-1, at 5-12; Exh. HE-2, at 32. A Notice of Intent will be filed with the Weymouth Conservation Commission requesting an Order of Conditions for this work. Exh. HE-1, at 5-12; Exh. HE-2, at 32.

- Flood Zones. Based on the National Flood Insurance Rate Map, Panel 229, Map Number 25021C0229E, revised July 17, 2012, and the National Flood Insurance Rate Map, Panel 227, Map Number 25021C0227F, revised June 9, 2014, the New Tap Station Site is not located within a designated flood zone. Exh. HE-1, at 5-12; Exh. HE-2, at 35-36. Construction and operation of the New Tap Station would not be expected to exacerbate local flooding as on-site stormwater management systems will be installed to control stormwater runoff from new impervious surfaces on-site. Exh. HE-1, at 5-12; Exh. HE-2, at 36.

- Stormwater Management. A stormwater management system consistent with BMPs will be developed to treat both the quality and the quantity of stormwater discharge from the site. Exh. HE-1, at 5-12; Exh. HE-2, at 33. Stormwater BMPs will include a sediment forebay and stormwater basin to address peak runoff from the New Tap Station Site. Exh. HE-1, at 5-12; Exh. HE-2, at 33.

- Visual Impacts. The proposed New Tap Station will be located along the central-eastern portion of the property in Eversource's transmission ROW. See Exh. HE-1, at 5-13; Exh. HE-2, at 32. The New Tap Station will be visible from the adjacent Connell Pool and Rink and its access road, with the access road partially located in the existing Eversource transmission ROW. Exh. HE-1, at 5-13; Exh. HE-2, at 32; Exh. EFSB-V-1. The New Tap Station includes a structure to house electrical control and relay panels and AIS. Exh. HE-1, at 5-13; Exh. HE-2, at 32. The tallest structures within the New Tap Station Site are four shielding masts, which are each 85 feet tall. Exh. HE-1, at 5-13; Exh. HE-2, at 32. The New Tap Station will be surrounded by a 10-foot-tall chain link fence. Exh. HE-1, at 5-13; Exh. HE-2, at 32. Three poles are proposed on the ROW adjacent to the transmission lines for the tap. Exh. HE-1, at 5-13; Exh. HE-2, at 32. These new poles will be consistent with the existing infrastructure within the ROW. Exh. HE-1, at 5-13; Exh.

HE-2, at 32. The New Tap Station equipment is proposed to be set back approximately 550 feet from Broad Street, so visual impacts along Broad Street will be limited. Exh. HE-1, at 5-13; Exh. HE-2, at 32. The closest residence to the New Tap Station is approximately 395 feet away on Roosevelt Road and visual impacts to this and other nearby residences are expected to be minimal because the New Tap Station Site is located on the opposite side of the transmission ROW from the residence. No tree clearing will occur on the side of the ROW where there are proximate residences, which will reduce the visibility of the New Tap Station. Exh. HE-1, at 5-13; Exh. HE-2, at 32; see also Exh. RR-EFSB-9 (stating distance to nearest residence). Because the New Tap Station will be visible to the Connell Pool and Rink, however, Eversource will provide landscaping (approximately 75 plantings are proposed) and other visual mitigation and screening adjacent to the New Tap Station to the east and south to minimize visual impacts. Exh. HE-1, at 5-13; Exh. HE-2, at 32; Exh. EFSB-V-1. The Company will provide a draft landscape plan to Weymouth and will solicit feedback from the Town and abutters prior to formalizing such plan. Exh. EFSB-V-1.

- Noise. Work to construct the New Tap Station will take place over an approximately 18-month period. Exh. HE-1, at 5-13; Exh. HE-2, at 33. Construction activities will include site preparation, including rock removal and grading, and the installation of new poles, electrical equipment, support structures and foundations. Exh. HE-1, at 5-13; Exh. HE-2, at 33. During this time, nearby residences may be affected by temporary elevated noise levels associated with typical construction sites; however, construction noise will attenuate with distance, and while no sound walls are proposed, the Company will employ certain mitigation measures, as described below. Exh. HE-1, at 5-13; Exh. HE-2, at 33; Exh. Preb-N-1; Exh. RR-EFSB-9. As indicated above, the closest residence to the New Tap Station is approximately 395 feet away along Roosevelt Road, and the average sound levels at that distance would be about 64 dBA during construction. Exh.

RR-EFSB-9. Construction will comply with Massachusetts Department of Environmental Protection (“MassDEP”) regulations relating to noise and will primarily occur within daytime work hours (7:00 a.m. to 7:00 p.m.). Exh. HE-1, at 5-13; Exh. HE-2, at 33; Exh. EFSB-NO-2.

To further mitigate construction noise at nearby residences, Eversource plans to:

- Require well-maintained equipment with functioning mufflers;
- Require strict compliance with MassDEP’s Anti-Equipment Idling regulations;
- Operate stationary noise generating equipment away from nearby residences; and
- Work with Weymouth to schedule construction outside these hours where necessary.

Exh. HE-1, at 5-13; Exh. HE-2, at 33; see also Exh. EFSB-NO-3. In addition, Eversource will employ appropriate mitigation measures to limit any noise impacts due to rock removal (i.e., mechanical rock removal techniques), although the Company does not anticipate that any blasting will be needed during construction. Exh. EFSB-NO-4; Exh. RR-EFSB-7. To the extent that blasting would be required, all blasting planning and activity would follow all applicable state and local laws and professional best practices in accordance with Eversource’s practices and procedures. Tr. 1, at 143-48; Exh. RR-EFSB-7. HMLP and Eversource anticipate that these measures will appropriately minimize construction-related noise impacts in the areas near the New Tap Station Site. Exh. HE-1, at 5-13; Exh. EFSB-NO-3; Exh. EFSB-NO-4. As no transformer is proposed at the New Tap Station, no operational noise is anticipated, but should noise occur during operation, Eversource intends to comply with local Weymouth nuisance standards. Exh. HE-1, at 5-13; Exh. EFSB-NO-5. Daytime and nighttime noise impacts from the proposed Project and anticipated equipment installations are predicted to fully comply with the applicable MassDEP noise policy. Exh. HE-1, at 5-13; Exh. EFSB-NO-2.

- Traffic. The proposed New Tap Station is located off public roads, and traffic impacts associated with New Tap Station construction are expected to be minor and temporary in nature,

and all residents will have vehicle access to their homes throughout construction. Exh. HE-1, at 5-13; Exh. HE-2, at 35; Exh. Preb-T-1. Access to the New Tap Station Site will primarily be by the existing access road off Broad Street and a new access road off the Connell Pool and Rink driveway, which is on Eversource property, due to access needs by large construction and delivery vehicles. Exh. HE-1, at 5-13; Exh. HE-2, at 35; Exh. EFSB-T-2. Eversource does not anticipate any traffic impacts on Broad Street due to typical deliveries for the Project. Tr. 2, at 190. Eversource will coordinate construction activities with the Connell Pool and Rink, however, to minimize impact on facility operations. Exh. HE-1, at 5-13; Exh. HE-2, at 35; Tr. 2, at 190. More broadly, HMLP will develop traffic management plans for the Project, and all construction activities will be coordinated with the appropriate public safety and municipal government entities, including any police details potentially needed for construction of the New Tap Station. Exh. EFSB-T-1; Exh. Preb-T-1. After construction is completed, the Project is not anticipated to generate additional traffic compared to pre-construction traffic conditions because the New Tap Station will be an unmanned facility and only Eversource staff will have access to the New Tap Station. Exh. HE-1, at 5-13; Exh. HE-2, at 35. Therefore, no significant vehicular traffic is anticipated due to construction or operation of the New Tap Station. Exh. HE-1, at 5-13; Exh. Preb-T-1.

- Public Shade Trees. The proposed construction of the New Tap Station is not anticipated to affect public shade trees. Exh. HE-1, at 5-14. The portion of the site where the New Tap Station is proposed is currently forested and will require removal of trees within the work area. Exh. HE-1, at 5-14. Approximately 221 trees 6 inches or greater diameter at breast height (“dbh”) will be removed at the New Tap Station Site. Exh. HE-1, at 5-14. Eversource will provide landscaping and other visual mitigation and screening adjacent to the New Tap Station to minimize visual

impacts. Exh. HE-1, at 5-14. At the New Tap Station Site, and as indicated above for visual mitigation, plantings are proposed along the perimeter between the New Tap Station and the Connell Pool and Rink access road and parking areas. Exh. EFSB-L-1. Eversource will have preliminary conversations with Weymouth officials, abutters, and community members regarding such landscaping and will evaluate input as the final landscaping plan is designed. Exh. HE-1, at 5-14.

- Soil and Groundwater Contamination. Per MassDEP's Waste Site & Reportable Releases site look-up tool, there are no releases reported at the New Tap Station Site. Exh. HE-1, at 5-14. During construction, to minimize the risk of environmental impacts associated with potential spills of hazardous materials, Eversource's contractors will be required to inspect vehicles and equipment daily and refueling will be completed outside of wetlands and buffer zones and will not be done unattended. Exh. EFSB-S-2. In addition, during construction, HMLP and Eversource will require their contractors to have spill kits available at all times in the event of a release. Exh. EFSB-S-2. Because only limited use of potentially hazardous material is anticipated during operation of the New Tap Station, no containment is proposed. Exh. EFSB-S-2; Exh. EFSB-S-3. Eversource and HMLP will coordinate with the fire departments of Weymouth and Hingham to develop an Emergency Response Plan for the Project, and regarding the New Tap Station, Eversource employees are trained to follow requirements provided in the Eversource Employee Safety Manual and Eversource contractors are required to follow the requirements of the Eversource Contractor Safety Policy. Exh. EFSB-S-4.

- Air Quality. The New Tap Station will not adversely affect air quality, either locally or long range. Exh. HE-1, at 5-14; Exh. HE-2, at 33. The potential for fugitive dust and for emissions from equipment associated with construction activities at the New Tap Station will be mitigated

utilizing BMPs during construction. Exh. HE-2, at 33; Exh. Preb-A-1. In addition, regarding the Company's use of sulfur hexafluoride ("SF<sub>6</sub>") at its substations across its service territories, while the Company has been exploring alternatives to SF<sub>6</sub>, alternative technologies are new, are not generally available for all voltage and product applications, and would not meet the performance ratings and equipment footprint required at the New Tap Station. Exh. EFSB-A-1. The Company, however, commits to following all applicable requirements governing use of SF<sub>6</sub> at the New Tap Station. See Exh. EFSB-A-1.

- Electric and Magnetic Fields ("EMF"). Gradient performed an independent EMF assessment covering all elements of the Project, including the proposed New Tap Station, which focused on aboveground 60-Hertz ("Hz") alternating current ("AC") magnetic fields ("MF") associated with the New Line. Exh. HE-1, at 5-14, App. 5-3 (EMF Report); Exh. HE-2, at 34. Overall, Gradient concluded "that all model-predicted MF values . . . are well below the ICNIRP health-based guideline of 2,000 [milligauss] for allowable public exposure to 60-Hz AC MFs." Exh. HE-1, App. 5-3, at 13. As shown in Tables 3.3 and 3.4 of the EMF assessment, based on annual average load levels, peak MF levels directly above the circuit centerline were 14.3 mG for the triangular conductor configuration above the underground duct bank trenches for the New Line, while peak MF levels for other representative cross sections directly above the circuit centerline ranged from 13.2 to 31.9 mG. Exh. HE-1, App. 5-3, at 13-15. MF modeling based on system peak load levels produced slightly higher results, but still far below health-based standards. Exh. HE-1, App. 5-3, at 13-15. Gradient determined that "[i]n all cases, aboveground MF levels dropped off rapidly with increasing lateral distance from the circuit centerlines, such that aboveground MF levels decreased to negligible levels at short distances beyond the trenches." Exh. HE-1, App. 5-3, at 14 (emphasis added).

As part of its overall assessment, Gradient considered the equipment to be installed at the New Tap Station and its anticipated EMF levels, and overall, determined that it would likely not be a significant source of MF outside the fenceline. Exh. HE-1, App. 5-3, at 2, 9. Gradient determined that MF would diminish rapidly with distance from New Tap Station equipment. Exh. HE-1, at 5-14, App. 5-3, at 2, 9. For the types of electrical equipment proposed to be installed at the New Tap Station (e.g., aboveground buswork, switchgear), where conductors are arranged near each other, MF levels decrease rapidly to low levels inside the fence line. Exh. HE-1, at 5-14, App. 5-3, at 2, 9; Exh. HE-2, at 34. Therefore, outside the fenceline, equipment at the New Tap Station is not expected to be a significant source of MF for nearby properties. Exh. EFSB-EMF-1. The New Tap Station itself will not abut or be in immediate proximity to any residential properties, with the closest residential properties on Broad Street — nearly 400 feet away. As a result, EMF levels from the New Tap Station will not have adverse impacts to the surrounding community.

- Areas of Critical Environmental Concern (“ACECs”) and Outstanding Resource Waters (“ORWs”). There are no ACECs or ORWs near the New Tap Station Site. Exh. HE-1, at 5-15; Exh. HE-2, at 35.

- Cultural Resources. No inventoried archaeological sites or historic properties on the Federal or State Register of Historic Places or the Massachusetts Historical Commission’s (“MHC”) Inventory of the Historic and Archaeological Assets of the Commonwealth are located on the New Tap Station Site. Exh. HE-1, at 5-15; Exh. HE-2, at 35. Because there are relevant sites nearby, Eversource and HMLP coordinated with the MHC to conduct archaeological field investigations or surveys on previously undeveloped portions of the site. Exh. HE-1, at 5-15; Exh. HE-2, at 35; Exh. EFSB-L-2. Based on the results of the archaeological survey, no impact to any

historic or archaeological feature is anticipated in association with New Tap Station construction or operation. Exh. HE-1, at 5-15; Exh. HE-2, at 35; Exh. EFSB-L-2; Exh. EFSB-L-2(1).

For the foregoing reasons, the Siting Board should find that the Project is reasonably necessary for the convenience and welfare of the public.

### **C. The Project Requires Individual and Comprehensive Zoning Exemptions**

#### **1. Standard of Review**

In determining whether an exemption from a particular provision of a zoning ordinance is “required,” the Department looks to whether the exemption is necessary to allow construction or operation of the petitioner’s project as proposed. SouthCoast Wind Energy LLC, EFSB 22-04/D.P.U. 22-67/22-68, at 215 (2024); Mid-Cape Reliability Project at 102; Eversource Oak Bluffs at 14. The petitioner must identify the individual zoning provisions applicable to its project and establish that an exemption from each of the provisions is required:

The Company is both in a better position to identify its needs, and has the responsibility to fully plead its own case . . . . The Department fully expects that, henceforth, all public service corporations seeking exemptions under [G.L.] c. 40A, § 3 will identify fully and in a timely manner all exemptions that are necessary for the corporation to proceed with its proposed activities, so that the Department is provided ample opportunity to investigate the need for the requested exemptions.

Mid-Cape Reliability Project at 102-03; Eversource Oak Bluffs at 14; Eversource Westfield at 6-7; New York Cellular Geographic Service Area, Inc., D.P.U. 94-44, at 18 (1995). The Department and the Siting Board also encourage zoning exemption applicants to consult with local officials prior to seeking zoning exemptions under G.L. c. 40A, § 3. Mid-Cape Reliability Project at 98; NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-85, at 38 (2016) (“Eversource Woburn”); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-02, at 46 (2015) (“Eversource Hopkinton”); Russell Biomass LLC, EFSB 07-4/D.P.U. 07-35/07-36, at 61-62 (2009) (“Russell”). Eversource and HMLP have complied with each of these requirements.

2. Eversource and HMLP Have Consulted with Weymouth Officials on Needed Zoning Relief.

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Eversource has satisfied the Department's and Siting Board's standards with respect to consultation with local officials in affected municipalities prior to seeking zoning exemptions. Eversource and HMLP are committed to working with municipal officials, local businesses, and residents abutting the Project and providing proactive and transparent communications throughout the life of the Project.

With respect to zoning-related outreach, between April 6, 2021 and March 12, 2024, HMLP held 10 meetings with Weymouth town officials, including the mayor's office, the Weymouth Planning Director, the Weymouth Conservation Commission, the Weymouth Department of Public Works, and various members of the Town Council. Exh. HE-1, at 1-11. In particular, the Company and HMLP met on May 3, 2022 with the Weymouth Conservation Commission, which also included representatives from the Fore River Watershed Association and the Town's Herring Warden, about the Project. Id. In addition, Company and HMLP representatives met with the Weymouth Planning Director on August 31, 2022 to discuss Eversource's plan to seek individual and comprehensive zoning exemptions for the construction and operation of the New Tap Station. Exh. HE-2, at 9; Exh. RR-EFSB-11. At these meetings, HMLP discussed and obtained feedback regarding its identified routes, timing of construction and potential impact on other Weymouth projects, construction methods, and, in the case of the May 3, 2022 meeting, potential impacts on the town's herring run. Exh. HE-1, at 1-12. In discussions with Weymouth officials and correspondence with the Planning Director, town representatives of Weymouth expressed no opposition to the plans of HMLP and Eversource to seek zoning exemptions from the Weymouth Zoning Ordinance pursuant to G.L. c. 40A, § 3, and stated that the Company would "need to seek zoning relief from the appropriate state board." Id.; Exh. RR-

EFSB-11(2). Outreach with Weymouth regarding the Project is ongoing and will continue through permitting and construction. Exh. HE-1, at 1-12.

Accordingly, Eversource has satisfied the Siting Board's standards with respect to consultation with municipal officials.

3. The Project Requires Individual Exemptions from the Operation of the Weymouth Zoning Ordinance.

As described in more detail below, in order to construct and operate the proposed New Tap Station, relief from the Weymouth Zoning Ordinance is required in several respects. The New Tap Station is needed in the near term in order for HMLP to provide reliable service to customers in Hingham. Further, the New Tap Station is needed to ensure adequate capacity in the longer term for future uses as Hingham pursues increased electrification to address climate change consistent with local and state goals.

Representatives of Eversource and HMLP met with the Weymouth Planning Director on August 31, 2022 to discuss Eversource's plan to seek individual and comprehensive zoning exemptions for the construction and operation of the New Tap Station. Exh. HE-2, at 9; Exh. RR-EFSB-11; Exh. RR-EFSB-11(2). After consultation with the Weymouth Inspector of Buildings, the Weymouth Planning Director, Mr. Robert Luongo, stated that Eversource would need to seek exemptions from the "appropriate state board" in lieu of seeking local zoning relief from the town. Exh. RR-EFSB-11(2). Thus, Eversource is seeking exemptions to allow for the timely, efficient, and consistent construction of the Project.

Based on Eversource's review of the Weymouth Zoning Ordinance, the New Tap Station requires zoning relief as set forth below.

Uses. According to the Weymouth Zoning Map, the Project Site is located in Resident District R-1 (Low Density, Single Family). Per Article IV, § 120-11 of Weymouth's Zoning

Ordinance, no building or premises shall be erected, altered or used for any purpose in the Resident District R-1 except detached one family dwellings and municipal uses.

Thus, the New Tap Station is a prohibited use in Resident District R-1. Article IV, § 120-12.1 and 13 list uses allowed by Special Permit from the Planning Board and Zoning Board of Appeals, respectively. Exh. HE-2, at 46-47. While the New Tap Station is proposed to be located entirely within an existing transmission ROW owned by the Company, public utility use is not a use permitted by Special Permit within the Resident District R-1. Id. at 47.

Significantly, the Weymouth Zoning Ordinance does not authorize the Board of Appeals to grant use variances. Per Section 120-119A(3), “[n]o variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.” Because there is no avenue to seek local zoning relief for the proposed use, an exemption from the use prohibition is per se required for the New Tap Station and Eversource seeks exemptions from Article IV, § 120-11, § 120-12.1 and 13, § 120-119A(3) of the Weymouth Zoning Ordinance. Exh. HE-2, at 47.

Height. Article XV and Table 1: Schedule of District Regulations provides a maximum height of 35 feet, or 2½ stories, whichever is less, in Resident District R-1. All proposed structures are below 35 feet with the exception of four shielding masts that will be approximately 85 feet in height. To authorize the height of the masts locally, Eversource would need to seek variances from the maximum height limitation. Exh. HE-2, at 47.

To grant a variance from the height limitation for the shielding masts, the Weymouth Zoning Board of Appeals would need to find the following in accordance with G.L. c. 40A, § 10: (a) circumstances exist relating to soil conditions, shape or topography of the particular parcel or structure that do not affect generally the zoning district in which the parcel or structure is located;

(b) a literal enforcement of the provisions of the bylaw would involve substantial hardship to the applicant and there is a nexus between the special circumstance and the hardship; and (c) the relief requested may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw. It is difficult, if not impossible, to demonstrate the existence of unique conditions relating to soil conditions, shape or topography of a particular parcel of land or structure. Exh. HE-2, at 47. Moreover, variances are a legally disfavored form of relief and, even if granted, are susceptible to challenge.<sup>3</sup> *Id.* at 47-48. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, Eversource seeks an exemption from the maximum height limitation in Article XV and Table 1: Schedule of District Regulations of the Weymouth Zoning Ordinance. *Id.* at 48.

Parking. Section 120-74 of the Weymouth Zoning Ordinance establishes minimum required off-street parking spaces. As the proposed use is not listed, the use would fall under Section 120-74R, which provides that reasonable, off-street parking requirements for buildings and uses for which the minimum required parking is not listed shall be determined in each case by the Inspector of Buildings. Exh. HE-2, at 48. Thus, it is within the Building Inspector's discretion to determine the number of parking spaces required for the New Tap Station. *Id.* The New Tap Station is unmanned, and parking of Company vehicles will be needed only for periodic inspections. *Id.* While no individual parking spots are depicted on the plan for the New Tap

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<sup>3</sup> Eversource characterizes variances as “legally disfavored” because the SJC has ruled that they are to be issued sparingly and only if all of the statutory prerequisites have been met. Norcross v. Board of Appeal of the Building Department of the City of Boston, 255 Mass. 177, 185 (1926) (“[i]t is only in rare instances and under exceptional circumstances that relaxation of the general restrictions established by the statute ought to be permitted. The power granted is only for the relief of specific instances, peculiar in their nature”). This holding has been consistently reiterated in decisions of the courts regarding the issuance of variances. Guiragossian v. Board of Appeals of Watertown, 21 Mass. App. Ct. 111 (1985).

Station, the New Tap Station Site is designed to accommodate parking for up to six (6) vehicles. Id. A variance would be required from Section 120-74 to ensure that minimum required parking requirements are not imposed by the Inspector of Buildings for the New Tap Station, where space for six vehicles is already proposed. Id. As noted above, it is difficult to meet the requirements for a variance, and the grant of variances is susceptible to challenge. Id. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden, and undue expense associated with the permitting process and appeals therefrom, Eversource seeks an exemption from any parking requirements that could be imposed by the Building Inspector per Section 120-74 of the Weymouth Zoning Ordinance. Id.

Signs. Section 120-64.1 of the Weymouth Zoning Ordinance regulates signs and prescribes the types, number and size of signs in the Resident District R-1. Eversource proposes the following three types of signs on the New Tap Station perimeter fence:

- No Trespassing Signs (approximate size: 12” x 9”)
- Contact Information Signs (approximate size: 14” x 10”)
- Danger Signs (approximate size: 14” x 10”)

Exh. HE-2, at 49. These types of signs are not explicitly allowed in the Resident District R-1 and, accordingly, variances would be needed to authorize them to be placed on the perimeter fence. Id. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden, and undue expense associated with the permitting process and appeals therefrom, Eversource seeks an exemption from Section 120-64.1 of the Weymouth Zoning Ordinance. Id.

Earth Removal. Section 120-81 of the Weymouth Zoning Ordinance requires a permit from the Board of Zoning Appeals for removal of earth materials. Furthermore, Section 120-81 provides that the removal of earth materials is subject to restrictive covenants of the Board of

Zoning Appeals. Under Section 120-81, the Inspector of Buildings is authorized to issue a permit for the removal from the site of earth and may require a suitable bond, if deemed necessary, where the amount of material to be removed is necessarily incidental to or in connection with the construction, alteration, excavation or grading for a building or road or other facility being built in accordance with a permit issued or in accordance with an approved plan, provided that there is reasonable assurance that the construction will be completed. Because earth material will be removed during construction, Eversource seeks an exemption from any permit or bond the Building Inspector or the Board of Zoning Appeals may impose for removal of earth materials even if incidental to construction. Exh. HE-2, at 49.

Site Plan Review. Articles XXIVA (Site Plan Review Authority) and XXVA (Site Plan Review) of the Weymouth Zoning Ordinance provide that the Weymouth Inspector of Buildings shall not issue a building permit until and unless the Weymouth Director of Planning and Community Development issues a decision of review consisting of all findings and pertaining to review of the site plan. Weymouth Zoning Ordinance, § 120-123(A). Thereafter, the Weymouth Planning Board has the authority to approve the site plan. Site plan review criteria include: (1) protection of adjoining premises and the general neighborhood from any substantially adverse impacts created by the proposed development; (2) convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements; (3) adequacy of the methods of providing for municipal facilities and essential services in connection with the development; and (4) provisions for off-street loading and unloading of vehicles incidental to the servicing of the development. Weymouth Zoning Ordinance, § 120-123(C). The Weymouth Zoning Ordinance does not provide any guidance for the application of these criteria to the site plan. Exh. HE-2, at 50. Moreover, Eversource must have the discretion

to design the New Tap Station in a manner that is consistent with established utility standards to ensure its reliable operation; such technical engineering and electrical issues are typically beyond the general scope of local site plan review. Id. Site plan approval can be conditioned and result in burdensome or restrictive conditions being placed on the construction of the New Tap Station that could be inconsistent with established utility standards. Id. Notably, the Weymouth Zoning Ordinance does not explicitly require site plan review in Resident District R-1, likely because the only as-of-right uses are single family residences and municipal uses. Id. Because the New Tap Station is a prohibited use in the zoning district (that is, it is not a residential or municipal use), and because nothing in the Weymouth Zoning Ordinance would prohibit the site plan review authorities from requiring it for the New Tap Station, Eversource is seeking an exemption from any requirement that may be imposed by the Weymouth Inspector of Buildings, Director of Planning and Community Development, or Planning Board to obtain site plan approval for the New Tap Station. Id.

To avoid the uncertainty that exists because of the vagueness and subjectivity in the Weymouth Zoning Ordinance as applied to the Project, and the need to seek variances and other zoning relief, Eversource seeks the following exemptions in order to construct, operate, and maintain the New Tap Station in Weymouth:

| <b>Zoning Provision</b>                                  | <b>Criteria</b>                                                                                                    | <b>Proposed</b>                | <b>Relief Required</b>                                                                                  |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------|---------------------------------------------------------------------------------------------------------|
| § 120-11 Permitted Uses                                  | Permitted uses in the Resident District R1 include only: (1) detached one-family dwellings; and (2) municipal uses | Substation Use – not permitted | Use variances explicitly prohibited per § 120-119A.(3)<br><br>Zoning exemption will be per se required. |
| Article XV and Table 1: Schedule of District Regulations | Maximum Height: 35 ft, 2.5 stories                                                                                 | Four masts at 85 feet          | Variances are needed for four shielding masts proposed at 85 feet.                                      |

| Zoning Provision                         | Criteria                                                                                                                                                                                                                                                                                                                                                                              | Proposed                                                                                                                                                                                                                                                          | Relief Required                                                                                                                                                                                                            |
|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                          |                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                   | Zoning exemptions required from maximum height requirement.                                                                                                                                                                |
| § 120-64.1 Signs                         | The types of signs that must be affixed to the New Tap Station fence are not explicitly allowed in the Resident District R1.                                                                                                                                                                                                                                                          | <p>Eversource will affix the following three types of signs on the perimeter fence:</p> <p>No Trespassing Signs (approximate size: 12" x 9")</p> <p>Contact Information Signs (approximate size: 14" x 10")</p> <p>Danger Signs (approximate size: 14" x 10")</p> | <p>Variances are needed for signs placed on perimeter fence.</p> <p>Zoning exemptions needed from any prohibition of required signage.</p>                                                                                 |
| § 120-74 Required Minimum Parking Spaces | <u>R.</u> Unlisted requirements. Reasonable off-street parking requirements for buildings and uses not listed in this section shall be determined in each case by the Inspector of Buildings.                                                                                                                                                                                         | <p>This is a requirement to be determined by the Building Inspector.</p> <p>Plan does not show any parking spots, but station can accommodate parking for approximately 6 cars.</p>                                                                               | <p>Variance is needed from possible requirement to have dedicated parking spots/more than six parking spots on site.</p> <p>Zoning exemption required from any parking requirements imposed by the Building Inspector.</p> |
| § 120-80 Earth Removal                   | <p>§ 120-81 Permit required.</p> <p>The removal of soil, loam, sand, gravel, quarry stone or other earth material from any parcel of land by any person, firm or corporation shall be allowed only under permit from the Board of Zoning Appeals and subject to restrictive covenants of the Board.</p> <p>The Inspector of Buildings may issue permits for earth removal and may</p> | Earth material will be removed from site during construction.                                                                                                                                                                                                     | Zoning exemption required for any permit or bond the Building Inspector may impose for removal of earth materials even if incidental to construction.                                                                      |

| Zoning Provision                 | Criteria                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Proposed                                                              | Relief Required                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                  | require a suitable bond, if deemed necessary, where the amount of material to be removed is necessarily incidental to or in connection with the construction, alteration, excavation or grading for a building or road or other facility being built in accordance with a permit issued or in accordance with an approved plan, provided that there is reasonable assurance that the construction will be completed.                                                                                                                                                                |                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                |
| Article XXVA<br>Site Plan Review | Site plan review criteria include: (1): protection of adjoining premises and the general neighborhood from any substantially adverse impacts created by the proposed development; (2) convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements; (3) adequacy of the methods of providing for municipal facilities and essential services in connection with the development; and (4) provisions for off-street loading and unloading of vehicles incidental to the servicing of the development. | The New Tap Station is a prohibited use in the Resident District R-1. | While site plan review is not explicitly required in the Resident District R1, nothing in the Weymouth Zoning Ordinance prohibits the imposition of site plan review for the New Tap Station. Accordingly, because the New Tap Station must be designed, constructed and operated according to utility industry standards, Eversource seeks an exemption for site plan review in Article XXVA. |

#### 4. The Project Requires Comprehensive Zoning Exemptions.

Eversource also requests a comprehensive exemption from the operation of the Weymouth Zoning Ordinance with respect to the Project. The grant of a comprehensive zoning exemption is

based on the specific facts of each case. Mid-Cape Reliability Project at 109; Eversource Oak Bluffs at 68; Eversource Westfield at 55. The Department and the Siting Board will consider a request for comprehensive zoning relief when issuance of a comprehensive exemption is imminently needed to avoid substantial harm. Mid-Cape Reliability Project at 109; Eversource Oak Bluffs at 69; Eversource Westfield at 55-56. The Department and the Siting Board have cited additional factors as relevant in making such a determination, including, but not limited to, whether: (1) the project is needed for reliability; (2) the project is time sensitive; (3) there are multiple municipalities involved that could have conflicting zoning provisions that might hinder the uniform development of a large project spanning these communities; (4) the project proponent has actively engaged the communities and responsible officials to discuss the applicability of local zoning provisions and address local concerns; and (5) the communities affected by the project do not oppose the issuance of a comprehensive zoning exemption. Mid-Cape Reliability Project at 109-110; Eversource Oak Bluffs at 69.

As described herein, the Project satisfies the Department's and the Siting Board's standards for the grant of comprehensive zoning exemptions. Overall, comprehensive zoning exemptions are imminently needed to avoid substantial harm, which is shown through application of the Siting Board's factors. With respect to the first two factors, as described in detail above in Section V.B.1 and in HMLP's initial brief, the Project is necessary to ensure system reliability under current conditions for the community of Hingham, and thus, need for the Project is immediate given that HMLP's current system does not currently meet established transmission reliability standards. With respect to the third factor, the entire Project (the New Tap Station in addition to the New Line and New Substation) involves the construction of two stations in two municipalities — Hingham and Weymouth — and implicates potentially conflicting zoning provisions that could

hinder the uniform and coordinated development of a complex project spanning these two communities. Thus, both Eversource and HMLP, together, request comprehensive zoning exemptions from operation of the Weymouth Zoning Ordinance as HMLP seeks to construct and operate the Project in both Weymouth and Hingham, and is therefore subject to multiple zoning ordinances.

With respect to the fourth and fifth factors, as discussed in Section III.A. and Section V.C.2, above, HMLP and Eversource have actively engaged the Weymouth community and the responsible officials in Weymouth to discuss the applicability of local zoning provisions, the need for both the individual and comprehensive zoning exemptions, and HMLP's and Eversource's plans to seek exemptions from the Department. HMLP, both on its own and in conjunction with Eversource, has held multiple meetings with officials, residents, and businesses in Weymouth. HMLP and Eversource met with the Weymouth Planning Director on August 31, 2022 to discuss the New Tap Station and the zoning process. Following this conversation, the Weymouth Planning Director, after consulting with Weymouth's building inspector, stated that "[s]ince switching stations are not allowed in R-1 zones and Weymouth does not allow use variances, you will need to seek relief from the appropriate state board." See Exh. RR-EFSB-11; Exh. RR-EFSB 11(2).

In addition to satisfying the Siting Board's factors, there are a variety of additional reasons why comprehensive zoning exemptions are necessary even when individual zoning exemptions are requested. The grant of a comprehensive zoning exemption is necessary even where individual zoning exemptions are granted, as the two types of zoning exemptions serve distinct needs. Exh. HE-2, at 55. An individual zoning exemption relates to specific provisions in the Weymouth Zoning Ordinance *currently* in effect that have the potential to conflict or be inconsistent with, prevent, delay or obstruct the construction or operation of the Project. Id. Comprehensive zoning

exemptions are also necessary with regard to provisions currently in effect because zoning bylaws and ordinances are rarely written with unique energy infrastructure facilities in mind. Id. The lack of clearly defined and specific regulation of electric infrastructure in the zoning enactments, and the vague and subjective terms and provisions of zoning ordinances and bylaws result in an imprecise, at best, application of the zoning provisions to energy infrastructure projects. Id. Both HMLP and Eversource have interpreted the provisions of Weymouth Zoning Ordinance reasonably to request individual zoning exemptions for all of the provisions that could conceivably be said to apply to the Project. Id. The grant of comprehensive exemptions would remove any reasonable doubt as to the ability of the Project to move forward without violating any terms of the Weymouth Zoning Ordinance. Id. Comprehensive zoning exemptions also go beyond the provisions in the current Weymouth Zoning Ordinance (from which an individual zoning exemption may be granted), to exempt the Project from any *future* zoning enactment that comes into effect that has the potential to jeopardize the Project (in the same manner described above for individual zoning exemptions). Exh. HE-2, at 55-56. In this manner, the two types of zoning exemptions work in tandem to ensure that meritorious energy facilities like the Project are constructed as approved by the Siting Board without undue delay. Id. at 56. The very purpose of a comprehensive zoning exemption is thus to provide a mechanism for relief from local zoning that would not be available if only individual zoning exemptions were able to be secured. Id. A comprehensive zoning exemption would also ensure the timely construction of the Project in the event that a Project design change is required. Id. Therefore, in addition to satisfying the Siting Board's factors, these rationales further support granting of comprehensive zoning exemptions in this case.

In sum, a comprehensive zoning exemption from the operation of the Weymouth Zoning Ordinance would ensure the timely construction of this important Project.

**D. Conclusion on Zoning Exemptions**

For the foregoing reasons, the Company respectfully requests that, pursuant to G.L. c. 40A, § 3, the Siting Board determine that the construction of the Project is reasonably necessary for the convenience and welfare of the public, and grant: (1) exemptions from the particular provisions of the Weymouth Zoning Ordinance described above; and (2) comprehensive exemption from the provisions of the Weymouth Zoning Ordinance, and take such other action as may be necessary and appropriate in connection with the Company's proposal to construct and operate the New Tap Station in Weymouth.

## VI. CONCLUSION

As demonstrated by the foregoing and by HMLP in its initial brief, the record supports approval of HMLP's request under G.L. c. 164, § 69J to construct, operate, and maintain the Project and, pursuant to G.L. c. 40A, § 3, to grant the requested individual and comprehensive exemptions from operation of the *Town of Hingham Zoning By-Law* and Eversource's request pursuant to G.L. c. 40A, § 3, to grant the requested individual and comprehensive exemptions from operation of *Zoning Chapter 120, Town of Weymouth General Code*.

Respectfully Submitted,

**NSTAR ELECTRIC COMPANY  
d/b/a EVERSOURCE ENERGY**

By its attorneys,



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