



via email

March 22, 2021

Lisa Kent
City Clerk
191 Cabot Street
Beverly, MA 01915

Re: Petition of New England Power Company for a Grant of Location for Electric Transmission Lines (N-192 Cable Replacement Project)

Dear Clerk Kent:

On March 17, 2022, we received your letter requesting that New England Power Company (the Company or NEP) supplement its petition to the City Council, which will be heard this evening. We appreciate the opportunity to continuing the ongoing conversation with the City regarding our plans to replace the existing Cable to ensure continued reliability for the City and the region.

The Company's responses to your requests are included below and in the attached materials. Some materials may still be under development and will be submitted later. For purposes of preserving the record, the Company notes that each request seeks information beyond the scope of the City Council's review under G.L. c. 166, § 22 insofar as they are unrelated to the permanent location of the new Cable within public roadways or to the question of whether the proposed location of the new Cables will "incommode the public use of public ways". Accordingly, these requests and the Company's related responses should not be factored into the Council's decision to grant, condition, or deny the Company's petition.

Nevertheless, the Company recognizes that the Council is keenly interested in understanding the scope and impacts of the Project and, therefore, has provided the following responses and materials for informational purposes:

1. **Technical Drawings.** *Please supplement the plans provided with your petition, to include both profile and cross-section technical drawings depicting the proposed alignment of the electric transmission lines in the public way and the existing alignment of other above- and below-ground infrastructure. The technical drawings you submit should be the most current versions available and should be comparable to those submitted to the Energy Facilities Siting Board ("EFSB") on March 4, 2020, in docket EFSB 19-04.*

Response: The information sought is already in the City's possession. The Company provided plan and profile construction drawings to the City Commissioner of Public Service

and Engineering on October 21 and 22, 2021. The Company provided those construction drawings to enable Project oversight by the consulting civil engineer that the Company agreed to pay for under Paragraph 1 of the Memorandum of Agreement (MOA) with the City. It is the Company's understanding that the Commissioner deemed those plans confidential and does not want them disclosed to the public. Out of respect for his decision, the Company respectfully requests that the Council make this request directly to the Commissioner of Public Service and Engineering.

Please note that in the Company's experience, field conditions inevitably cause some minor deviations in the route as shown on the construction drawings. Any such changes will be shown on as-built plans that will be submitted to the City following Project construction.

2. ***Mitigation of Project-Related Noise.*** *Please describe all measures that NEP proposes to take to minimize the impacts from project-relating noise on all land uses adjacent to the project route.*

Response: The Company provides as **Exhibit A** McCourt Construction's Noise Control Plan. In addition, the Company directs the City Council to Paragraph 9(b) of the MOA, which states that "construction work hours shall be limited to 7:00 am to 4:30 pm on weekdays, inclusive of clean-up activities. On weekends, construction may begin no earlier than 8:00 am."¹

The Company also will regularly update the Project website and provide email updates regarding any planned work outside typical working hours and will maintain a Project hotline for abutters to use to raise specific concerns or questions to a Stakeholder Representative for the duration of the Project.

3. ***Lower Noise-Generating Equipment.*** *Condition I of the EFSB's Final Decision in 19-04 requires the use of "newer, lower noise-generating equipment and portable noise barriers" in certain locations. Please furnish descriptions of the "newer, lower noise generating equipment and portable noise barriers" that NEP proposes to use pursuant to Condition I and, further, state whether such equipment can be used along the entire route of the project in Beverly and not just in those locations subject to Condition I. If such equipment cannot be used along the entire route, please identify specifically those portions of the route where such equipment cannot be used and explain why.*

Response: Please see **Exhibit A** and the Company's response to Request #2.

4. ***Beverly #12 Substation Transformer.*** *Condition J of the EFSB's Final Decision in 19-04 requires the reduction in project sound levels near a residence on Marshall Court. NEP filed a letter of compliance with Condition J stating that NEP will use a special type of*

¹ Due to the MBTA's restrictions on work within its ROW, the Company may need to work Sundays to remove the existing Cable from the MBTA ROW.

transformer to reduce sound levels. Please furnish a description and technical information concerning the specified transformer.

Response: The Company has requested specifications for the transformer from the manufacturer and will provide those to the Council upon receipt.

5. ***Mitigation of Project-Related Lighting.*** *Please describe all measures that NEP proposes to take to minimize the dispersion of and impacts from project-related lighting on all land uses adjacent to the project route.*

Response: The Company notes that Condition K of the EFSB’s Final Decision “directs the Company to consider use of lighting measures in conjunction with removal of the Existing Cable that minimize dispersion onto adjacent land uses.” To this end, McCourt Construction will propose to use all measures to mitigate site lighting from entering land uses along the project route. McCourt’s work is scheduled to occur during day-time hours from 7:00 am to 3:30 pm Monday thru Friday. Work during other time periods, which may be considered outside of normal working hours, will be carefully coordinated with Project management to minimize impacts to abutters. If the use of light towers is required, the light towers will be lowered as much as possible, aimed at the ground and away from houses as much as possible while still maintaining a safe work area.

6. ***Staging, Storage and Laydown Areas.*** *Please identify all locations, whether on public or private land, that NEP contemplates will be used as staging, storage or laydown areas for the project, or that otherwise will receive or store project-related equipment or materials (including dirt or other materials excavated from the project route) or may serve as parking for project workers.*

Response: In addition to the above objection, this request is also beyond the scope of the Council’s review insofar as it requests information regarding construction activities on “private land”. Notwithstanding those objections, McCourt Construction’s staging, storage and laydown area will be located off Otis Road in Beverly. That solar farm property is owned by Iron Tree and McCourt has leased a section of land for this Project. This area will be used for the following: (i) to store materials as well as soils from Project excavation; (ii) to store new, clean soils to be used as backfill along the Project; (iii) to store equipment when not needed at the worksites along the streets; and (iv) employee parking.

The Company also directs the City Council to Paragraphs 9(d) and (e) of the MOA, which require the Company to secure approval from the City Engineer of any construction staging area on public property and commits the Company to remove equipment from the public way at the end of each workday:

(d) NEP shall receive approval from the City Engineer of any construction staging area on public property. Daily staging near the construction work site, which will be removed at the end of the day as set forth in paragraph 9(a) herein, is not subject to this provision and shall not require prior approval.

(e) NEP shall require its contractor to remove any unused equipment or materials from the worksite each evening.

7. ***Traffic Management Plan.*** Please submit a proposed traffic management plan.

Response: The requested information is already in the City's possession. The Company delivered the Traffic Management Plan (TMP) to Commissioner Collins on October 19, 2021, and to the Police Department on March 7, 2022. On March 10, 2022, the Company met with Police Sergeant Henebury to review any comments. The Sergeant had no proposed modifications to the plan and had no concerns with having to provide two to four officers for details at certain times during construction. The TMP was also provided to Councilor Rotondo on March 4, 2022. The Company provides the TMP again as **Exhibit B**.

8. ***Community Outreach Plan.*** Please submit a proposed community outreach plan.

Response: The outreach plan is already in the City's possession. Specifically, on December 10, 2021, the Company provided its community outreach plan to Mayor's office. The Company followed-up via email on December 29, 2021 requesting input. On December 30, 2021, the Mayor's Chief of Staff asked the Company to send the plan to each City Council Member. After several unsuccessful attempts to discuss the request, the Company sent the outreach plan to the Mayor's office and each City Council Member on January 25, 2022.² The Company again provides the Outreach Plan as **Exhibit C**.

9. ***Project Schedule.*** Please provide the most current project schedule.

Response: The Company notes that under Paragraph 3(a) of the MOA the detailed project schedule is to be developed in consultation with the City, as follows:

As soon as NEP is reasonably certain of the start and end dates of Project construction it shall provide those dates to the City. The City DPW shall coordinate the collection of schedules from other City departments for that construction period and provide same to NEP. Those schedules will be included as part of the construction specification for incorporation by NEP's contractor in the construction schedule to the extent practicable. NEP agrees to work with the Mayor of Beverly and his designee(s) to make any final adjustments to the contractor's construction schedule. The City recognizes that the construction schedule may require revisions during the Project's lifecycle. Project milestones, updated as necessary, shall be posted on the Project website.

² On January 31, 2022, the Company filed this outreach plan in compliance with Condition O of the EFSB's final decision.

Once the detailed Project schedule is developed the Company will submit it to the Council. Detailed discussions regarding schedules will not begin, however, until the City Council has made its final decision with respect to the Company's petition.

The Company had prepared the following high-level schedule before this petition was delayed:

- April 2022 – mobilize crews, resources, and materials. Test pitting of the manhole locations and any preliminary survey work including Ground Penetrating radar and initial Dig safe markups for preliminary construction.
- May 2022 – manhole and Excavation work to begin in Beverly by mid-month as well as work within the River St. facility. The work per street will need to be coordinated with the City DPW as well as any other internal National grid Group. Close coordination with on- going construction efforts by other companies in the City (i.e., Pleasant and Park Streets). This work will proceed through October 2023 given certain working condition during the Winter Moratorium period.
- Electric Cable installation work – April 2023 through January 2024.
- Existing cable removal work – begin January 2024 through April 2025.

10. ***EMF Pre- and Post-Construction Monitoring.*** *Please provide a proposed plan for both pre- and post-construction monitoring of electromagnetic fields along the project route.*

Response: The Company has notified residents along the route that they can request that the Company perform EMF pre- and post-operation readings at their property by contacting us via email and/or the Project hotline. Residents who sign up for the Project newsletter are also given the option to check a box stating they want such readings. The appointments will be scheduled directly with the resident and the Company will ensure that they are done prior to the cable being placed in service. A second reading once the cable is operational will also be scheduled. The Company will provide the resident with a copy of the reading reports.

11. ***Pre-Construction Video Sweep.*** *Please provide a proposed plan for a pre-construction video sweep, from the public way, of all properties along the project route to document pre-construction conditions prior to commencement of the project.*

Response: The Company is offering abutting residents more property-specific surveys than the requested video sweep from the public way. The Company directs the City Council to Paragraph 4(a) of the MOA, which states as follows:

NEP shall work with City officials to ensure that residents and businesses along the construction route have the opportunity to participate in pre-construction photo/video surveys to document the pre-construction condition of residences and businesses along the construction route. Residents and businesses shall be entitled to receive a copy of the survey taken from their property upon written request. Prior to construction, NEP shall mail a letter to all abutters (including property

owner and tenant) of the approved construction route explaining the survey process.

12. **Temporary Relocations.** *Please provide a proposed plan for temporary relocation of residents, at their option, during periods of high-noise or other high-impact construction work.*

Response: The Company does not relocate residents or provide alternative housing absent a specific, serious safety risk to that individual. The Company recognizes that in-street construction can be inconvenient, but this Project and others are undertaken using customer funds and we take seriously our role of being stewards of those funds. It would be unreasonable and unsustainable for any entity working in public streets – whether the Company, the City or a private developer – to spending money to temporarily relocate any abutting resident inconvenienced by construction. That said, the Company will carefully review the specific hardships and concerns of any resident who contacts the Company.

13. **Public Shade Tree Evaluation.** *Please provide a proposed plan to secure from a certified arborist, prior to project commencement, an evaluation report documenting the condition of public shade trees along the project route.*

Response: In addition to the Company’s general objections above, the Company objects that the request is overbroad insofar as it requests the Company to evaluate the health of existing public shade trees regardless of whether they will be impacted by Project construction.

Nonetheless, the Company directs the City Council to Paragraph ¶6 of the MOA, which commits the Company to work with the City Arborist throughout Project construction, as follows:

(a) In the event NEP contractor(s) remove public shade trees after consultation with the City’s Arborist and in compliance with all applicable state laws and ordinances, NEP or its contractor shall replace the trees removed in accordance with Beverly’s tree replacement policies (every inch in caliper that is removed is replaced by planting trees in locations determined by the City Arborist) and any newly planted trees must be guaranteed for two years after planting.

(b) Any required cutting of tree roots may only be performed after consultation with the City Arborist. Those trees subject to root cutting shall be guaranteed by the contractor for at least one year after root cutting and shall be replaced pursuant to City policy if ordered by the City Arborist.

14. **Sewer and Storm Drain Survey.** *Please provide a proposed plan to conduct a closed-circuit interior video recording of the existing City sewer and drain structures and components along the project route prior to project commencement.*

Response: The Company notes that it does not have plans to undertake sewer and storm drain surveys. Instead, the Company and the City agreed in Paragraph 1 of the MOA that the Company would pay the City up to \$200,000 for the City to hire a consulting engineer for the specific purpose of “ensur[ing] the Project does not adversely affect City infrastructure and planned construction projects along the construction route”.

15. ***Construction-Related Damages.*** Please provide a proposed plan for processing claims by residents of damage to property caused by the project and for payment of substantiated claims.

Response: The Company directs the City Council to Paragraph 4(b) of the MOA, which states:

NEP shall require its contractor to have a detailed process to handle claims of damage to persons, vehicles or property to Beverly residents, visitors, business owners or the City itself as a result of Project construction activities. This process shall be in place prior to the start of construction. Information on how to submit claims to the Contractor will be included as part of the Project website. To ensure that the Contractor is being responsive, NEP agrees that its contract with the selected contractor for the Project shall require the contractor to provide notice of damage claims weekly to the Stakeholder Relations Representative. This Representative shall provide the City Engineer a weekly list of the number of claims made, the date they were made and whether the claims have been resolved. The Parties understand that such damage claims constitute private matters between the claimant and Contractor and that neither the contractor nor NEP may disclose private information to the City. NEP’s agreement to acquire claims processing information and provide it to the City is not an agreement or acceptance by NEP to be responsible for compensating for claims resulting from the negligence, gross negligence, reckless misconduct or intentional acts of the Contractor.

McCourt’s damage claims process is as follows:

Claimant shall contact McCourt Construction Office 617.260.2330 and/or Safety Manager Joshua Palen Cell 617.719.8679; jpalen@mccourtconstruction.com. Claimant must provide: Date and Time of Loss, Description of Loss with location, Photographs and other documents to support claim, i.e., police report, estimates, cause of claim. McCourt will reach out to the claimant and open an investigation. During the investigation process McCourt will review all submitted information and discuss with the claimant its findings. McCourt will then issue a verbal response followed by a written response stating an acceptance or denial and what further steps can be taken by the claimant.

Acceptance of Responsibility: McCourt Construction will pay or reimburse claimant directly or through an insurance claim with McCourt Constructions Insurance Carrier.

Denial of Responsibility: McCourt Construction will issue a denial letter with reason for denial, and may also include, if claimant is not satisfied with the findings by McCourt Construction, that the claimant should file with their insurance carrier who will then attempt to determine liability and if McCourt Construction is found liable, subrogate costs to McCourt Construction. Another option would be for the claimant to file suit with small claims court for a magistrate to review and determine liability.

16. **Barriers.** *Please provide a proposed plan for the erection of barriers to preserve public safety during hazardous excavation activities.*

Response: McCourt Construction will comply with all requirements of Jackie’s Law and its implementing regulations (G.L. c. 82A; 520 CMR 14.00), which require, among other things, that “[a]ccess to unattended trenches opened during construction on a public way shall be restricted by covers or barriers.” 520 CMR 14.04(2).

More specifically, around Work zones McCourt is proposing to use concrete barriers to keep the public safe. If additional chain link fence is required, the chain link fence poles and mesh will be set in the barriers with sleeves. McCourt will be using steel plates to cover all open excavations at the end of each shift. If the excavation cannot be covered, temporary chain link fence will encompass the excavation per Jackie’s Law

17. **Coordination with City staff and City Council.** *Please provide a proposed plan for periodic updates to City staff and the City Council regarding the Project’s progress and upcoming construction work.*

Response: The Company directs the City Council to the plan as set forth in the following paragraphs of the MOA:

MOA ¶2(a) “NEP’s Stakeholder Relations Representative and other specific representatives of NEP shall be available to meet with and respond to questions from City officials, business leaders and residents during and prior to construction regarding specific concerns such as traffic, safety, relocating bus stops and on-street parking and environmental issues. The Stakeholder Relations Representative shall meet with and provide the City with two-week look ahead reports describing the construction activities planned for the upcoming two weeks. The Stakeholder Relations Representative will make all efforts to speak with all business and all commercial property owners abutting the route in person one week prior to any work taking place. The Stakeholder Relations Representative will also make periodic stops to businesses while construction is taking place.

(b) NEP will continue to maintain its Project website throughout the duration of the Project. The website address shall be listed on any material sent to residents and on all Project signage. The City shall provide a link on its website to the

Project website and shall have meaningful input into the site's content. In addition to the English language content, the Project website shall include a brief description of the Project in Spanish and Portuguese and direct Spanish and Portuguese speaking individuals to NEP's Stakeholder Relations Representative if they need further translation of the information appearing only in English.

(c) NEP shall publicize and maintain a hotline phone number and process for reporting emergencies after business hours.”

MOA 3(d) “During manhole and duct bank construction, as well as cable installation and removal, NEP shall have a construction supervisor assigned full time to the Project and available to respond to any questions and/or concerns. NEP’s construction specifications will require that the contractor provide a Project Manager who will, among other responsibilities, maintain a permanent presence at the Project site for the duration of the Project and act as the contractor’s point of contact with individuals and groups, as well as the City of Beverly and all its departments; representatives of local neighborhood groups; and representatives of local businesses. The Project Manager shall be responsive to City officials 24 hours a day/seven days a week and to residents and businesses during hours of construction.”

MOA 9(g) “NEP will identify and provide contact information to the City of the appropriate and direct construction contacts who will be available 24 hours a day 7 days a week to the City for operational questions and concerns and to be available in the event of an emergency.”

*18. **Rodent Control Plan.** Please provide a proposed plan for rodent control. Additionally, please provide copies of any proposed plan already submitted to the City’s Health Department on this topic.*

Response: The Rodent Control Plan is already in the City’s possession. The Company shared this Rodent Control Plan with Councilor Sweeney on February 17, 2022 and with Councilor Bowen on February 22, 2022. On March 8, 2022, the Company met with, and provided additional copies of the Rodent Control Plan to, Department of Health Director William Burke, Environmental Analyst Joseph Reale, and Mayor Chief of Staff Joscelyn Ruelle-Kersker. The City officials were satisfied with the plan and requested only that the Company start baiting 14 days before construction starts, which amendment was incorporated into the plan.

The Company again provides the Rodent Control Plan as **Exhibit D**. This plan that the Company developed in consultation with the City’s Director of Health as it agreed to under Paragraph 9(f) of the MOA, which states as follows:

NEP and/or its contractor shall consult with the City’s Director of Health and shall ensure that effective rodent controls are established. Should the rodent

population be displaced (leave its natural habitat) because of the Project, then NEP and/or its contractor, at their sole cost and expense, shall retain the services of a professional exterminating company to abate the rodent migration problem. This service must adequately and sufficiently solve the problem.

19. ***Pedestrian Access Plan.*** *Please provide a proposed plan for pedestrian access around and in the vicinity of areas under construction.*

Response: The Company plans to control pedestrian traffic and access as follows:

Pedestrian traffic will be controlled using cones with T-top bars and proper signage to navigate pedestrians around work zones that impact the walkways and crosswalks. Detail police officers will be on-site to help direct pedestrian traffic around work zones. If additional pedestrian barriers are required, the Company will discuss requirements with the City to formulate a pedestrian detour plan. The specifics of how this is accomplished at any particular location will depend on the physical layout of the area as well as several other factors, including time of year, time of use, weather, abutter input regarding other known traffic or pedestrian concerns, and other construction or community projects impacting the work area.

20. ***Construction Sequencing Plan.*** *Please provide a proposed plan for the sequence and timing of construction along the proposed route.*

Response: In general, the stages of construction are as follows:

1. Installation of soil and erosion controls and other mitigation measures, as appropriate;
2. Manhole installation;
3. Trench excavation, duct bank installation and pavement patching;
4. Cable pulling, splicing, and testing; and
5. Final pavement restoration along the new route.

Each of these stages is described in detail in Section 5.4 and Table 1-1 of the Company's EFSB Application, a copy of which was provided to the City Clerk.

21. ***Archaeological Monitoring Plan/Report.*** *Please provide a proposed plan for monitoring for archaeologically sensitive locations and/or burial grounds during construction of the proposed route and plan in the event that you encounter such during construction. Please also provide any reports or studies already conducted with respect to this issue.*

Response: The Company has submitted this information to the Beverly Historic Districts Commission. The Company notes that the archaeological study, prepared by The Public Archaeology Laboratory, Inc., is marked proprietary and is deemed confidential. Accordingly, the Company does not feel at liberty to enter that document into the public record in this proceeding.

22. **Central Fire Station Plan.** *Please provide a proposed plan for operations during construction in the vicinity of the Central Fire Station. Additionally, please provide copies of any proposed plan already submitted to the Fire Department.*

Response: Representatives of the Company and its contractor have met with the Beverly Fire Chief on two occasions, February 23rd and February 28th. During these consultations the Fire Chief provided input on the excavation and identified potential concerns with the location of a manhole proximate to the central fire station. The Chief wanted to understand how his apparatus would be affected leaving the station in either direction, with particular attention to ensuring sufficient turning radius for the ladder truck.

At these meetings, the Company and the Chief agreed to: (i) review potential alternative locations on Hale Street for the proposed manhole; (ii) reduce the extent of excavations in front of the station; (iii) plate the excavations and take other measures to ensure constant roadway access for the fire apparatus; and (iv) adjust the Cable location into a longer swing up to the corner of Hale Street so that it does not affect the pitch of the station driveway, which must be maintained for the ladder truck to back into the station due to the garage door clearance.

The Company is still analyzing the best way to accomplish these objectives. Once that analysis is complete, the Company and its contractor will adjust the construction drawings accordingly.

23. **Updated repaving estimate.** *Please provide an updated estimate of what the current cost would be to NEP if it were to undertake permanent road repaving as referenced in paragraph 10(a) of the Memorandum of Agreement, executed on or about March 26, 2020.*

Response: The Company has obtained two updated cost estimates to repave the public ways as detailed in Exhibit A to the MOA. Once the Company has reviewed these with Commissioner Collins, we can provide them to the Council.

24. **Dust Control Plan.** *Please provide a proposed dust control plan.*

Response: McCourt Construction does not yet have a Dust Control Plan as required under Paragraph ¶9(a) of the MOA. The Company will provide that upon completion. The Company notes, however, that Paragraph 9 of the MOA also states that: “NEP shall require its contractor(s) to leave the construction site in room-swept condition at the close of each construction day.” Further, the Company directs the City Council to Section 4.2.7 of the Storm Water Pollution Prevention Plan, which states:

Potential air impacts will be temporary and associated with Project construction. Since soil handling will be accomplished using a clean trench method, the potential for nuisance dust should be greatly reduced.

However, cutting activities shall still be conducted to minimize the impacts of dust on the surrounding areas. Should dust control be required for this project, it will be limited to water. Contractors will have water trucks with misters available during construction to control the release of dust from the work area. No salts or wetting agents will be used.

25. ***Storm water Management Plan.*** *Please provide a proposed storm water management plan.*

Response: The Storm Water Pollution Prevention Plan is attached as **Exhibit E**.

26. ***Post-Discovery Review and Line Relocation Plan.*** *Please provide a post-discovery review and line relocation plan for the project.*

Response: The post-discovery plan, prepared by The Public Archaeology Laboratory, Inc. (PAL), was submitted to the Beverly Historic Districts Commission by email from PAL to Emily Hutchings on September 23, 2021. The Company notes that the plan is marked proprietary and is deemed confidential. Accordingly, the Company does not feel at liberty to enter that document into the public record in this proceeding.

27. ***Other Submissions.*** *Please provide copies of all proposed plans previously submitted to or that you intend to submit to any City department, board, and/or commission.*

Response: Unless the Company did not include certain documents for the reasons stated above, the plans provided herewith are those that the Company has submitted to City departments, boards or officials. The Company recognizes the ongoing nature of this request.

Sincerely,



Assistant General Counsel & Director

Encls.

cc: City Council Members
Mayor Cahill
Tim O'Leary, NEP
Faith Hassle, NEP