

**STATE OF NEW HAMPSHIRE**  
**SITE EVALUATION COMMITTEE**

**SEC DOCKET NO. 2015-06**

**JOINT APPLICATION OF NORTHERN PASS TRANSMISSION LLC &  
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
D/B/A EVERSOURCE ENERGY  
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANTS' OBJECTION TO KEVIN SPENCER AND MARK LAGASSE D/B/A  
LAGASPENCE REALTY REQUEST TO FIX DEADLINE TO FILE DISPOSITIVE  
MOTIONS REGARDING APPLICANTS' CLAIMED RIGHT TO CONSTRUCT THE  
NORTHERN PASS ON EASEMENTS**

NOW COME Northern Pass Transmission LLC (“NPT”) and Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH”) (collectively the “Applicants”), by and through their attorneys, McLane Middleton, Professional Association, and object to Kevin Spencer and Mark Lagasse d/b/a Lagaspence Realty’s (“Lagaspence” or “Petitioner”) Request to Fix Deadline to File Dispositive Motions Regarding Applicants’ Claimed Right to Construct the Northern Pass on Easements (the “Request”).

1. The Petitioner’s Request improperly seeks to reargue the Subcommittee’s December 18, 2015 completeness determination, contrary to Chairman Honigberg’s March 1, 2016 Order on Pending Motions to Suspend Proceedings or Postpone Public Hearings, as well as the conclusions of that order, and it erroneously asserts standing contrary to Chairman Honigberg’s March 18, 2016 Order on Petitions to Intervene.

2. As a matter of process, the Request violates the New Hampshire Site Evaluation Committee’s (the “Committee” or “SEC”) most recent Order on Petitions to Intervene, dated March 18, 2016, and is not contemplated by the Committee’s rules. In this Order, the SEC granted Lagaspence’s Petition to Intervene, but simultaneously grouped Lagaspence into Group

2 of the Abutting Property Owners from Clarksville through Dalton. Order, at 16. The Committee’s Order clearly requires each intervenor group to “designate a single spokesperson for the purposes of filing pleadings, conducting discovery and for examination at evidentiary hearings.” *Id.* at 17.

3. Upon information and belief, Group 2 of the Abutting Property Owners from Clarksville through Dalton has not designated a spokesperson. The Request does not state that the attorney filing the Request has been designated as that spokesperson for the purposes of filing pleadings. Therefore, to maintain compliance with the Committee’s March 18 Order, and to “promote the efficient and orderly process of the proceeding,” the Applicants respectfully request that the Committee deny the request.<sup>1</sup>

4. As a matter of substance, the crux of the Request appears to be that the Application is incomplete and/or that the Additional Information submitted on February 26, 2015 is insufficient. Specifically, the Request contends that the requirements of readopted Site 301.03 (c)(6) have not been satisfied. In footnote 3 to the Request, the Petitioner also argues why the Subcommittee should not continue to process the Application.

5. The March 1, 2016 Order on Pending Motions states clearly at p. 10 that the Applicants have “filed the Additional Information required by the readopted administrative rules” and expressly identifies the information relative to Site 301.03 (c)(6) on p. 11. The order clearly states as well, on pp. 9 and 10, that the language of RSA 162-H:10, VII is unambiguous that the Subcommittee is required to continue to process the application and that there is no evidence demonstrating that the public interest requires a suspension.

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<sup>1</sup> Additionally, it should be noted that the Request does not comply with Site 202.14(e), which requires a motion to state whether it is assented-to or contested, and fails to identify whether the parties concur, take no position, or object. Indeed, the Applicants were not contacted to seek assent prior the filing of this Request.

6. The Request also misconstrues the Committee's role in determining whether the Applicants have sufficient property rights to construct the Project. As conceded by the Petitioner, the SEC does not have jurisdiction to adjudicate property rights. To the extent a party wishes to challenge the land rights demonstrated by the Applicants, it is up to that party to contest the land rights in a court of competent jurisdiction.<sup>2</sup> Upon information and belief, there is no pending court proceeding that challenges the Applicants' property rights with regard for the Petitioner's property.<sup>3</sup>

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<sup>2</sup> The Request misconstrues the procedural posture of Applicants' Petition for Approval of Lease Agreement Between PSNH d/b/a Eversource Energy and Northern Pass Transmission LLC, NHPUC Docket DE 15-464. In both the SEC proceeding and NHPUC Docket DE 15-464, the Applicants have filed sufficient documentation and evidence demonstrating that PSNH has the necessary property rights to construct the Project and that PSNH has the legal authority to lease those rights to Northern Pass Transmission LLC. The Petitioner's Request suggests that it is the Applicants' duty to file a lawsuit to establish its claim that the easements allow the construction of Northern Pass and that the Applicants are required to join each and every property owner as necessary in the action. *See* Request, at page 2 n \*1. However, the Applicants have clearly demonstrated that they have the necessary rights to construct the Project and the SEC has determined that the Application contains sufficient information to establish this fact. Should individuals contest this finding, it is incumbent upon them to challenge the ruling in court.

<sup>3</sup> Even if there was a pending court proceeding, such a proceeding would not have an effect on the SEC process until a court directs the SEC to stop its proceedings. During the Committee's deliberations on whether the Application was deemed administratively complete, Counsel for the SEC, Attorney Michael Iacopino, discussed the effect of a pending lawsuit filed by the Society for the Protection of New Hampshire Forests in superior court regarding property rights. Attorney Iacopino stated in pertinent part that the "lawsuit has no effect on the Site Evaluation Committee carrying out its duties. . . . the Site Evaluation Committee is not a party to any lawsuit. . . . [a]nd, the lawsuits that are pending don't have any impact on the obligation to proceed of the Committee." Transcript of Site Evaluation Committee Meeting of Subcommittee Members to Determine Whether the Application as filed Contains Sufficient Information to Carry out the Purposes of RSA 162-H, at 18.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Deny the Petitioners' Request; and
- B. Grant such further relief as is deemed appropriate.

Respectfully submitted,

Northern Pass Transmission LLC and

Public Service Company of New Hampshire d/b/a

Eversource Energy

By Its Attorneys,

McLANE MIDDLETON,  
PROFESSIONAL ASSOCIATION

Dated: March 21, 2016

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Certificate of Service

I hereby certify that on the 21<sup>st</sup> of March, 2016 the foregoing Objection was electronically served upon the SEC Distribution List.

  
Barry Needleman