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October 26, 2015

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Re: Joint Application of Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy for a Certificate of Site and Facility, N.H Site Evaluation Committee Docket No. 2015-06

Dear Agency Officials:

On October 19, 2015, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy filed an Application for a Certificate of Site and Facility (Application) for the siting, construction and operation of a proposed electric transmission line with a 1,090 MW transfer rating, extending approximately 192 miles from the Canadian border in Pittsburg, NH to a substation located in Deerfield, NH. The Project, as proposed, is comprised of a 158.3 mile, +/- 320 kV direct current (DC) segment and a 33.7-mile 345 kV alternating current (AC) segment. Approximately 60.5 miles will be located underground in public roadways. The project will be located in five counties (Coos, Grafton, Belknap, Merrimack, and Rockingham). A hard copy and an electronic copy of the Application were delivered to those agencies with specific permitting authority. If your agency requires another copy, please contact me directly. An electronic copy of the Application will also be available on the SEC website, www.nhsec.nh.gov and is currently available at www.northernpass.us/state-filing-documents.htm.

Please note that pursuant to R.S.A. 162-H:7-a, I, state agencies having permitting or other regulatory authority may participate in Committee proceedings by (i) receiving proposals or permit requests; (ii) determining completeness of elements required for agency's permitting or other programs and reporting on such issues to the Committee; (iii) reviewing proposals or permit requests and submitting recommended draft permit terms and conditions to the Committee; (iv) identifying issues of concern on the proposal or permit request or notifying the Committee that the application raises no issues of concern; and (v) designating one or more witnesses to appear before the committee at a hearing to provide input and answer questions of parties and Committee members. R.S.A. 162-H:7-a, VI, provides that a state agency may also intervene as a party in any committee proceeding in the same manner as other persons under RSA 541-A.

Pursuant to R.S.A. 162-H:7, IV, I am requesting that your agency, as an agency with a permitting or other regulatory authority over the Project, conduct a preliminary review of the Application and respond in writing to me **prior to November 13, 2015**, as to whether or not the Application contains sufficient information to satisfy the application requirements for your agency to

consider the issuance of permits, conditions or licenses, if any, under the jurisdiction of your agency pursuant to either state or federal law. If the Application does not contain sufficient information for this purpose, please advise me, in writing, as to what additional information is necessary.

For your convenience I have attached pages 17-20 from the Application. On these pages the Applicant lists the agencies with permitting and other regulatory authority and identifies permits and licenses that it asserts are required for the proposed Project. If you believe that the Application requires a permit from your agency that is not included on the list, please contact me as soon as possible.

I look forward to your response. If you have any questions please feel free to contact me via e-mail at Pamela.monroe@sec.nh.gov or 271-2435.

Sincerely,



Pamela G. Monroe
Administrator
NH Site Evaluation Committee

Ec: Barry Needleman, Esq., McLane Middleton
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Adam Dumville, Esq., McLane Middleton
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Elizabeth Maldonado, Esq, Northern Pass Transmission, LLC
Michael Iacopino, Esq., Brennan, Lenehan

(d) OTHER REQUIRED APPLICATIONS AND PERMITS**(1) Identification of All Other Federal and State Government Agencies Having Jurisdiction, Under State or Federal Law, to Regulate any Aspect of the Construction or Operation of the Proposed Facility**

RSA 162-H:7, IV provides that “[e]ach application shall contain sufficient information to satisfy the application requirements of each state agency having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, and shall include each agency’s completed application forms.” The statute thus requires an applicant to satisfy the application requirements of the “state agencies having permitting or other regulatory authority.” *Id.* The Applicants acknowledge that under Site 301.03(d) the SEC may require the filing of additional information relative to other agencies and other aspects of regulation and regulatory compliance under its rulemaking authority. However, as discussed below, the Applicants submit that the statute limits the agencies that may make agency-specific completeness determinations to those state agencies that make final decisions.

Pursuant to the statute, each state agency having permitting or other such regulatory authority must determine if an application contains “sufficient information for its purposes” to make a final decision. *Id.* Accordingly, the Applicants believe that only those state agencies that make a final decision by issuing a permit, order or decision within the time limits established in RSA 162-H:7, IV-c, may participate in making a completeness determination under the statute. Those state agencies include NHDES, NHPUC, and NHDOT.

An agency’s purpose under the statute must be read in the context of its other requirements under the statute, namely, those that require an agency having permitting or other regulatory authority to report its progress to the SEC within 150 days and to make a final decision within 240 days. RSA 162-H:7, VI-b and VI-c. This position is consistent with the fundamental goal of resolving all issues in an integrated fashion, as set forth in RSA 162-H:1. Moreover, the statute recognizes that agencies having permitting or other such regulatory authority over a project comprise only those agencies that may dictate terms and conditions in a permit or decision, or deny a necessary approval altogether. RSA 162-H:16, I.

Recent amendments to RSA Ch. 162-H, specifically, the addition of RSA 162-H:7-a, which recognizes the two basic ways in which state agencies may participate in SEC proceedings, i.e., as an agency that makes a final decision, or as an agency that takes a position on how the SEC should make a particular finding supports this conclusion.

a. Federal Agencies

- United States Department of Energy (“DOE”) (authority over U.S.A.-Canada border crossing and environmental impact of the Project);
- US Army Corps of Engineers (“USACE”) (Clean Water Act, 33 U.S.C. § 1344 *et. seq.*, relative to wetland protection as addressed through the New Hampshire Programmatic General Permit);
- US Environmental Protection Agency (“USEPA”) (Clean Water Act, 33 U.S.C. § 1251 *et. seq.*, relative to the National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit);
- United States Forest Service (“USFS”) (authority over federally owned and managed land crossings);
- United States National Park Service (authority over Appalachian Trail crossing as delegated to the United States Forest Service);
- Federal Aviation Administration (“FAA”) (14 C.F.R. § 77.9 relative to the preservation of navigable airspace, an air obstruction determination under FAA Regulation Part 77.9(b) is required);¹² and
- US Fish and Wildlife Service (“USFWS”) (Endangered Species Act (ESA) of 1973, 16 U.S.C. § 1531, *et. seq.*, relative to protection of federally-listed threatened and endangered species as addressed under the New Hampshire Programmatic General Permit).

b. State Agencies1. *State Agencies That Make An Agency Completeness Determination*

- NH Department of Environmental Services (“NHDES”), Water Division, Wetlands Bureau (RSA Ch. 482-A, relative to dredge and fill in wetlands as addressed under the NHDES Wetlands Permit Application);
- NHDES, Water Division, Alteration of Terrain (“AoT”) Bureau (RSA 485-A:17, relative to surface water runoff from land disturbance as addressed under the NHDES Alteration of Terrain Permit Application);

¹² The Applicants will submit FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the FAA at least 45 days before commencing construction.

- NHDES, Water Division, Watershed Management Bureau (Clean Water Act, 33 U.S.C. § 1341 *et. seq.*, related to state certification that the Project will meet state water quality standards);
- NHDES, Water Division, Shoreland Program (RSA Ch. 483-B, the Shoreland Water Quality Protection Act, establishes standards for development adjacent to the state's public water bodies as addressed under the NHDES Shoreland Permit Application);
- NH Department of Transportation ("NHDOT") (RSA Ch. 236, 231 and 265 relative to regulation of the highway system, requires permits for utility crossings and use of NHDOT ROWs); and
- NH Public Utilities Commission ("NHPUC") (jurisdiction relative to crossings of public waters and lands under RSA 371:17 as addressed under the four NHPUC License Applications, and a Petition to Commence Business as a Public Utility under RSA 374:22).

2. *Other State Agencies*

- NH Division of Historical Resources ("NHDHR") (National Historic Preservation Act, 16 U.S.C. § 470 and RSA Ch. 227-C regarding cultural resource protection);
- NH Natural Heritage Bureau ("NHNHB") (authority under RSA Ch. 217-A, the NH Native Plant Protection Act, to review impacts to state-listed rare, threatened, and endangered plant species as addressed under the NHDES Wetlands Permit Application);
- NH Fish & Game Department ("NHFG") (authority under RSA Ch. 212-A, the NH Endangered Species Conservation Act, to review impacts to state-listed rare, threatened, and endangered wildlife species as addressed under the NHDES Wetlands Permit Application); and
- NH Department of Safety, Division of Fire Safety, State Fire Marshal (RSA Ch. 21- P:12 relative to the responsibilities of the State Fire Marshal, ensuring compliance with the NH State Fire Code and the NH State Building Code through the review of plans prior to construction). See Appendix 50.

(2) Documentation that Demonstrates Compliance with the Application Requirements of Such Agencies

Documentation demonstrating compliance with the application requirements of the State and federal regulatory agencies listed in (d)(1) above has been included within the agency application

forms and supporting documentation contained in the Appendices listed in the following Section (d)(3).

Applications for certain construction related approvals from state and federal agencies will be filed by NPT or its contractors after: (1) the SEC site certificate and other approvals listed above are issued; (2) equipment is ordered; and (3) field work is ready to begin. These may include, if necessary:

- NHDOT Special Permit to move a load in excess of legal limit;
- NHDOT Driveway / Curb Certification;
- New Hampshire Department of Resource and Economic Development (“NHDRED”) Notice of Intent to Cut;
- USEPA NPDES Construction General Permit;
- FAA Form 7460-1, Notice of Proposed Construction or Alteration;
- Blasting Permits;
- NHDES Groundwater Discharge Permit; and
- NHDES approval of laydown areas, storage areas, wire pulling sites, temporary access roads, and permanent access roads.

(3) A Copy of the Completed Application Form for each Such Agency

A copy of the relevant permit application forms have been included in this application and appended as follows:

Appendix 2:	NHDES Wetlands Permit Application
Appendix 3:	USACE Section 404 Clean Water Act and Section 10 Rivers and Harbor Act Application
Appendix 4:	NHDES Section 401 Water Quality Certification Application
Appendix 5:	NHDES Shoreland Permit Applications
Appendix 6:	NHDES Alteration of Terrain Permit Application
Appendix 7:	DOE Presidential Permit Application
Appendix 8:	USFS Special Use Permit
Appendix 9:	NHDOT Petition for Aerial Road Crossings
Appendix 11-15:	NHPUC Petitions ¹³

¹³ NPT will file a petition to commence business and petitions to cross public waters and lands owned by the State. PSNH will file petitions to cross public waters and lands owned by the State.