

Andrew D. Dodge
2 Central Green
Winchester, MA 01890
Andrew-dodge@verizon.net

VIA ELECTRONIC MAIL

March 28, 2016

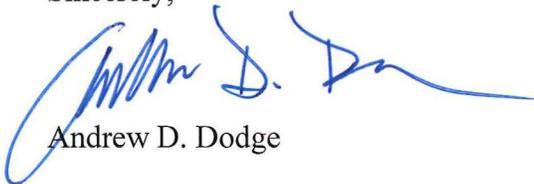
Pamela G. Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301

Re: New Hampshire Site Evaluation Committee Docket No. 2015-06: 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 for Construction of a New High Voltage Transmission Line in New Hampshire

Dear Ms. Monroe,

Enclosed for filing in the above-referenced matter please find a Request to Review Order on Petitions to Intervene.

Sincerely,



Andrew D. Dodge

Enclosures

cc: Distribution List

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2015-06

**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**

REQUEST TO REVIEW ORDER ON PETITIONS TO INTERVENE

Background

1. Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the “Applicants”) jointly submitted an Application of for a Certificate of Site and Facility for Construction of a New High Voltage Transmission Line in New Hampshire (the “Project”) to the New Hampshire Site Evaluation Committee (“SEC”) for review (Docket No. 2015-06). In connection with the SEC’s review of the Project, I submitted a Petition to Intervene (the “Petition”). In its March 18, 2016 Order on Petitions to Intervene (the “Order”) the SEC granted my Petition, but combined me with 16 other petitioners (the “Group”) and ordered this 17-member Group to designate a single spokesperson for purposes of filing pleadings, conducting discovery and for examination at evidentiary hearings. Due to the conflicting interests of the members of the Group and the impracticalities, disadvantages and unfair burdens imposed on the Group, the aforementioned combination will prevent me from protecting the interest which formed the basis of my intervention and is, accordingly, expressly prohibited by RSA 541-A:32, IV. I am filing this Request to Review Order on Petitions to Intervene to respectfully request that (i) I be removed from the Group and allowed to participate in the proceedings as an intervenor individually and (ii) if the SEC insists on combining intervenors, it does so in a way that is consistent with RSA 541-A:32.

Group is Not Permitted Under RSA 541-A:32, IV

2. In Section II.A in the Order the SEC sets for the standard for intervention, limits that may be placed on an intervenor's participation and the SEC's ability to combine intervenors. The SEC points out, however, that combining intervenors is only permissible "so long as the limitations placed on intervenors do not prevent the intervenor from protecting an interest that formed the basis of intervention." *See* Order, p. 2; RSA 541-A32, IV and Site 202.11(e). Forcing me to intervene through the Group prevents me from protecting the interest that formed the basis of my intervention.

3. The interest that formed the basis of my intervention is related to the potential view of certain parts of the Project from my property. After I filed my Petition, the Applicants on February 26, 2016 filed a Response and Objection to Certain Petitions (the "Objection"). In Section II of the Objection the Applicants emphasize that in order to become an intervenor a petitioner must show an interest in the proceeding that is different from the interest of the public at large. According to prior SEC orders cited in the Objection the interest that forms the basis of a petitioner's intervention must be specific to that petitioner and different from the interest of the general public. *See* Objection, p. 3. In my response to the Objection (the "Response") I wrote that my specific interest that provides the basis for my intervention is my concern that the erection of towers contemplated by the Project within the scenic view from my property may adversely affect the value of my property. I even went so far as to name specific towers along the propose route, such as structure DC-694. The SEC agreed that I had expressed an acceptable interest and granted my Petition (*see* Order, p. 18) so the interest that formed the basis of my intervention, the interest that is different from the general public, is related to my potential view of certain towers, such as DC-694.

4. The respective interests that formed the bases of other Group members' interventions are different. According to the Order, all of the intervenors in the Group will have a view of the Project from their properties and are concerned about the impact of the Project on health, aesthetics, views, property values, lifestyle and rights related to existing rights-of-way. *See* Order, pp. 17 and 18. However, the specific concerns of all of the intervenors in the Group that formed the respective bases of their interventions are not the same. The members of the Group include owners of properties from Clarksville to Bethlehem. Intervenors living in Clarksville, which is about 50 miles from Bethlehem, are unlikely to be able to see structure DC-694 from their properties; likewise, I am unlikely to be able to see parts of the Project in Clarksville from my property in Bethlehem. If I had claimed in my Petition that I was concerned about the view of the towers in Clarksville, the SEC would have rejected my Petition (for the reason emphasized in the Applicants' Objection as noted in paragraph 3 above) on the grounds that because I can't see the towers in Clarksville my interest in the view of those towers is no different than the interest of the general public. The interest, therefore, that formed the basis of intervention is necessarily not the same for all of the members of the Group. My interest includes my view of structure DC-694; for other it may be different towers or, as noted in the Order, legal rights related to rights-of-way (which are not applicable to me at all as there is no right-of-way that crosses my property).

5. Forcing intervenors with different interests prevents each intervenor from protecting their own interest. I believe the SEC forced all of the members of the Group together because the SEC believes our interests are all similar. While the members of the Group do share some of the same *types* of interests (such as our concern that the view of the Project may adversely affect our property values), the *specific* interests that formed the basis of our

intervention (e.g., the specific view of certain parts of the Project) are not all the same and are, in fact, conflicting. For example, if the Applicants' offered to bury the portion of the Project in Clarksville on the condition that our Group did not object to building towers in Bethlehem, the interests that formed the basis of my intervention would be in direct conflict with the interests of the intervenors in Clarksville. In light of the fact that the Applicants have already agreed to bury selected portions of the Project, this is not an unrealistic scenario. Under these circumstances, how should the spokesperson for the Group respond? If I am forced to intervene through a spokesperson, but that spokesperson cannot fully represent my interests due to the conflicting interests of the members of the Group, how is it possible for me to protect those interests—the interests that are specific to me—that formed the basis of my intervention? How then is it possible that forcing me to be a member of the Group is permitted under RSA 541-A:32, IV? The answer is that it isn't. Accordingly, I respectfully request that I am removed from the Group and allowed to participate in the proceedings as an intervenor individually.

Group is Impractical, Disadvantageous and Imposes Unfair Burdens

6. The Group has 17 different members. Conflicting schedules related to work, travel, children's sports and other personal and familial responsibilities will make scheduling meetings among 17 different people to discuss relevant issues within the statutory timeframes far enough in advance to allow a spokesperson to incorporate the interests of all members nearly impossible. For example, I work long hours, travel internationally, have four school-aged children that each has numerous academic and athletic events and have an elderly parent. In situations where a response is required in 10 days intervenors that are allowed to proceed individually will have only to consider the issue at hand and draft a response as their own individual schedules permit. The Group must find a time that all 17 members can consider the

issue together, all 17 members will have to discuss the issue (possibly several times), someone will have to draft a response that effectively represents all 17 potentially conflicting interests, all 17 members will then have to comment on the response and compromise revisions will have to be made—all within the same deadlines as individual intervenors. Imposing these unrealistic conditions on me and the other members of the Group under the guise of making the proceedings more efficient and orderly is outrageous.

7. Certain members of the Group live almost 180 miles apart (the center of Clarksville, NH to the center of Winchester, MA, where I live, is approximately 177 miles). How should the Group hold meetings to discuss issues so that each of our own individual interests that formed the basis of our intervention is protected by the unified voice of the spokesperson? In person? If we meet in the middle, at least two of us will have to drive up to four hours or more round trip. We will have the added expense of gas and wear and tear on our vehicles. If we meet at night, which is when most working people like me would be able to meet, I can look forward to a long drive home in the dark after a long day when I am tired, maybe in the rain, maybe in the snow (yet another conflict: personal safety versus property interests). How about a conference call? Unfortunately, we will need a special service in order to host a conference call with 17 parties. This will involve extra expense every time we want to protect our interests. Why should members of our Group have to pay more, spend more time driving or endure more time away from our other duties and pursuits simply to exercise the same rights under the law to represent our interests as individual intervenors?

8. Who is going to take on the responsibility of being the spokesperson? Individual intervenors have only their own interests to represent, their own schedules to manage and no extra group meetings to attend. Coordinating the conflicting interests and schedules of 17

intervenors is no small task and is likely a full time job if someone were even willing to take on such a huge responsibility. At the March 21 pre-hearing conference (the “Conference”) the presiding officer urged groups to hire legal counsel to be spokespeople. If the Group hired a competent lawyer, maybe we could have fewer meetings and spend less time on this whole matter because our interests would be sufficiently represented by a professional. It sounds great; unfortunately, I don’t believe it will ever happen. Even if the Group were willing to bear the expense of a lawyer, Rule 1.7 of the New Hampshire Rules of Professional Conduct prohibits a lawyer from representing a client if the representation involves “a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client.” The scenario I described in paragraph 5 above is just one example of many potential conflicts among the members of the Group. The risk that a lawyer’s representation of one member of the Group will be limited is significant enough that I don’t believe a lawyer could act as a spokesperson for the Group. If this is true and an attorney cannot represent the Group under applicable ethics rules and under the SEC’s Order it is only the spokesperson that can file pleadings, conduct discovery and examine evidence at hearings (*see* Order, p. 19), then in addition to all of the other impositions forced upon me and the other members of the Group I guess it follows that none of the 17 members of the Group can have legal counsel file pleadings, conduct discovery and examine evidence at hearings? How is that possibly consistent with RSA 541-A: 32, IV?

9. For all of the foregoing reasons, forcing me and the other members of the Group to represent our interests through the Group would be impractical, would disadvantage me and the other members of the Group vis-à-vis other parties to the proceeding and would place unfair time, financial and other burdens on me and the other members of the Group. These

impracticalities, disadvantages and burdens further erode my ability to protect my interest which formed the basis of my intervention and are just more reasons why forcing me to participate in the Group is not permitted by RSA 541-A:32, IV.

Any Grouping of Intervenors Should be Consistent with RSA 541-A:32, IV

10. Any grouping of intervenors should be consistent with RSA 541-A:32, IV. If the SEC insists on grouping intervenors, the very first grouping should be voluntary. The SEC should allow intervenors, now that we all know who the other intervenors are, 20 days to self-select groups of like-minded intervenors with similar interests who can more easily coordinate activities among themselves. During breaks at the Conference I heard several intervenors discussing the possibility of joining forces. I would think voluntary groups would be in everyone's best interests, including the SEC's.

11. If an insufficient number of voluntary groups are formed and the SEC insists on additional groups, the SEC should keep the groups small so as to reduce scheduling conflicts (no more than five non-voluntary members) and limit members to those who own properties that are geographically close to each other to limit conflicts of interest (properties no farther than 20 minute drives apart) and should limit the number of members that live more than 20 minutes away so out-of-area members can participate by conference call without the need for special equipment or expense (no more than two).

12. In any case, the SEC should suspend deliberations under RSA 162-H:14 for at least 30 days after all groups have been formed to allow groups enough time to meet one another, determine how they will coordinate their actions and, if required and legally permitted, to designate a spokesperson. Just ordering that intervenors form groups and steamrolling ahead does absolutely nothing to "assure an orderly conduct of the proceedings" (*see* Order, p. 18) as

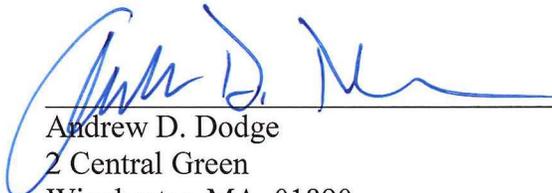
we have already seen at the Conference. Groups were given one business day before the Conference plus an additional 10 minutes during the Conference to select spokespeople to represent the groups at the Conference. As far as I can tell, no group selected a spokesperson and, as far as I can tell, not a whole lot of substantive progress was made either. We certainly did not discuss any offers of settlement, simplify any issues, agree on any issues, limit the number of witnesses, set a schedule for the proceeding or cover many of the other issues listed in RSA 541-A:31. Simply pronouncing that the proceedings shall be orderly is not enough to make them so.

WHEREFORE, the undersigned respectfully requests that the Subcommittee:

- A. Remove me from the Group and allow me to participate in the proceedings as an intervenor individually.
- B. If the SEC insists on combining intervenors, combine intervenors in accordance with the recommendations described in paragraphs 10 through 12 above—starting with allowing intervenors to voluntarily form groups and ending with suspending deliberations until the groups are formed and properly coordinated.

Respectfully submitted,

Date: March 28, 2016



Andrew D. Dodge
2 Central Green
Winchester, MA 01890
andrew-dodge@verizon.net

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2016 a copy of the foregoing document was sent by electronic mail to the persons named on the Distribution Email Address List for this docket that is provided by the New Hampshire Site Evaluation Committee on its website.



Andrew D. Dodge