

141 Tremont St., Boston, MA 02111

(t) 617-902-2354 (f) 617-902-2349

[www.nepga.org](http://www.nepga.org)

March 28, 2016

**Via Electronic Mail**

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

**Re: 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; NEPGA's Partially Assented-to Request for Reconsideration of Denial of Petition for Limited Intervention**

Dear Ms. Monroe:

In accordance with the Notice of Hearing on Pending Motions and Order of Notice of Deadlines issued on March 25, 2016 in the above-captioned docket, please find attached a Partially Assented-to Request for Reconsideration of Denial of Petition for Limited Intervention, filed on behalf of the New England Power Generators Association, Inc.

Please contact me if you have any questions in this regard. Thank you for your assistance.

Very truly yours,

Carol J. Holahan

cc: Service List 2015-06 (electronic mail only)

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**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**

**Partially Assented-to Request for Reconsideration of Order  
Denying the New England Power Generators Association, Inc.  
Petition for Limited Intervention**

NOW COMES the New England Power Generators Association, Inc. (NEPGA) and, pursuant to RSA 541-A:32 and N.H. Code of Admin. Rules Site 202.11(f) respectfully requests reconsideration of the Site Evaluation Committee's (Committee or SEC) March 18, 2016 Order (Order) denying NEPGA limited intervenor status in the above-captioned proceeding and requests the opportunity to be heard on this matter. In support of this petition, NEPGA<sup>1</sup> states as follows:

1. On March 18, 2016, the SEC's Presiding Officer issued an Order denying NEPGA's Petition for Limited Intervention. *Order at 46.*
2. Recognizing the limitation on the SEC's jurisdiction in siting matters, NEPGA's Petition for Limited Intervention was intentionally narrow, and sought participation only on the issues that it

---

<sup>1</sup> The views set forth in this Petition reflect those of NEPGA and not necessarily those of its individual members.

considered to be both within the SEC's purview and within the scope of affected interests of its members.<sup>2</sup>

3. The Presiding Officer failed to correctly interpret and apply the intervention standards articulated in N.H. Code of Admin. Rules Site 202.11 and RSA 541-A:32 and erroneously concluded that the rights, duties, privileges, immunities or other substantial interests of NEPGA and its members are not adversely affected by the Joint Application of PSNH of New Hampshire d/b/a Eversource Energy (Eversource) and Northern Pass Transmission LLC (NPT) (collectively, the Applicants). Such denial was unjust and unreasonable and constitutes reversible error. *See RSA 541:13; Petition of Mooney, 160 N.H. 607, 611 (2010).*
4. Because this merchant project involves the construction of a 192 mile transmission line and associated facilities that will introduce approximately 1,090 megawatts (MW) of power into the New England electrical grid and will do so by way of enforceable long-term commitments, there can be no doubt that that the project will displace existing sources of supply in the marketplace and thus jeopardizes the hundreds of millions of dollars in capital

---

<sup>2</sup> In its Petition, NEPGA identified its interests broadly, including its desire to ensure a level playing field and the wholesale competitive electricity market. While not specified in its initial Petition, these broader issues include issues such as unfair competition, the affect that the proposed project would have on the existing generators within the wholesale market, including continued viability, loss of revenue and loss of jobs.

investments already made in reliance on the restructured market by NEPGA members.

5. NEPGA supports and favors open competition within the market place and therefore must oppose situations where one party is unfairly advantaged to the serious detriment of both existing and new generators by out-of-market and non-competitive activities. In this instance, those concerns exist with the explicit potential for self-dealing purchase power agreements, market share carve-outs and affiliate abuse between a utility and merchant transmission affiliate for use of property and service, most specifically to site a project.
6. Northern Pass is precisely such a project. Despite language in the Order denying NEPGA's Petition for Limited Intervention that concludes "[e]nsuring fair or competitive markets is not within the purview of the Site Evaluation Committee," *Order at 46*, the Applicants themselves have aggressively and consistently touted the alleged benefits of lower energy costs and other benefits that inure to the New England electricity market flowing from the project in their written application,<sup>3</sup> in their Forward NH platform,<sup>4</sup> and at public hearings on this matter. Moreover, the Applicants have made these statements with the express purpose of demonstrating that

---

<sup>3</sup> See Joint Application of Eversource and NPT, at ES-6, discussing alleged savings to customers and purchase power agreement.

<sup>4</sup> See Eversource's Forward NH Plan relating to lower energy costs, <http://www.northernpass.us/lower-energy-costs.htm>.

the project satisfies the “public interest” standard as required by N.H. Code of Admin. Rules Site 301.16.

7. For example, the initial slide discussed by Eversource’s representatives at recently-held SEC public hearings describes the proposed benefits of this project, including identifying economic benefits of reducing electricity rates and additional special benefits flowing to New Hampshire customers by virtue of a purchase power agreement.<sup>5</sup>
8. Based on the repeated and pervasive public representations made by the Applicants relative to the energy savings and the alleged importance of this project to New Hampshire and New England’s energy future, the Applicants, themselves, have opened the door and introduced issues related to the energy and capacity markets in New Hampshire and New England into the case. For the SEC to conclude that issues related to the competitive energy marketplace are not squarely before them and that NEPGA’s members’ interests adversely affected by this project are not fully in play, both fails to comport with the record in this case, is contrary to the SEC’s prior decisions on intervention,<sup>6</sup> and fails to afford NEPGA and its members due process.

---

<sup>5</sup> See *supra*, notes 3 and 4.

<sup>6</sup> See, e.g., *Laidlaw Berlin BioPower*, SEC No. 2009-02, Order on Pending Motions, March 24, 2010 at 4 (developers of electric generating facilities with substantial interests related to supplies and transmission capacity allowed limited participation per RSA 541-A:32, II and 202.11(d)).

9. Moreover, denying NEPGA the opportunity to participate in this docket on a limited basis and on the limited issues identified in its Petition for Limited Intervention that directly and substantially affect its members, potentially handicaps the SEC's development of an adequate record on these issues.
10. This is particularly so where, as here, NEPGA has developed detailed analysis on the costs and market impacts of importation of provincially owned large-scale hydro through out-of-market mechanisms. This includes a report by Polecon Research examining the potential costs of Northern Pass (Exhibit A) as well as an analysis from Dr. Susan F. Tierney of the Analysis Group (Exhibit B) examining the potential costs and implications of such development on both consumer electricity costs as well as the wholesale electricity market place. Notably, Dr. Tierney's report discusses how subsidizing provincially-owned large-scale hydro can undermine the overall investment climate, result in lost revenue and jobs, all to the detriment of both existing generators and consumers. *See, e.g., Exhibit B, Tierney Report at ES-3.*
11. Moreover, given that the Applicants have also repeatedly discussed in their written materials and at public hearings the number of jobs this project will allegedly create as a basis for meeting the "public interest" standard, it is incumbent on the SEC to develop and fully vet this issue during the proceeding. There can be no doubt, as

reflected in the Tierney Report, that the potential loss of jobs to the employees of existing generators will occur if Northern Pass comes on-line and begins delivering power on preferential terms into the region. See *Exhibit B, Tierney Report at 7*. In contrast to the proposed jobs contemplated by this project, NEPGA members *actually* provide more than 800 well paying and highly skilled jobs within New Hampshire and their New Hampshire plants pay more than \$46 million annually in municipal and state taxes.

12. That these issues are relevant to this proceeding is further evidenced by the Presiding Officer's comments in granting the IBEW's Motion to Intervene and the express recognition that the "employment and income earning ability of IBEW members is affected by the outcome of this project." *Order at 40*. Certainly, the business interests and economic viability of affected competitive power generators are no less significant than the economic interests of individual energy industry employees represented through the IBEW.
13. Similarly, the Order allows the intervention of Cate Street Capital, Inc. (CSC), the manager of a 75 MW bio-mass fired-power plant project in the North Country whose capacity may be increased to 100 MW if the Northern Pass project is approved. In approving the intervention, the Order provides that the proposed project will bring economic benefits to CSC. *Order at 39*. If an intervenor who will

benefit economically from the proposed project is permitted, it is patently unfair to deny intervention to the trade association representing those entities will be economically disadvantaged by the proposed project.

14. The disparate treatment of NEPGA and IBEW and NEPGA and CSC for the purposes of determining intervention, despite similarity of circumstances, is unwarranted, unjust and unreasonable. This is especially so where the Order neither addresses in any meaningful way the basis for such denial, nor proffers justification for treating NEPGA's intervention differently from similarly situated intervenors.
15. Since the Applicants themselves have promised that the project will deliver economic benefits directly related to energy costs and the region's energy future as direct evidence of how the project meets the "public interest" standard, it has placed the project's economic impact on the region's supply and demand in issue. To deny the generating facilities directly and adversely affected by that purported economic impact the ability to contest those assertions is unjust and unreasonable and denies the petitioners equal protection under the law.
16. NEPGA has demonstrated that its members have a direct and substantial interest in issues before the SEC in this proceeding and NEPGA's intervention will not impair the orderly conduct of this

proceeding. Accordingly, NEPGA has satisfied both the statutory and Committee's standard for intervention.

17. Finally, NEPGA asserts that it has in-depth experience on economic issues placed in issue by the Applicants before the Committee and believes it will be a constructive part of the adjudicative process in assisting the Committee to develop an adequate record with regard to the application under its consideration.
18. In accordance with N.H. Code of Admin. Rules Site 202.14, Public Counsel and the Society for the Protection of New Hampshire Forests assent to NEPGA's Request for Reconsideration. In light of Applicants objection to NEPGA's Petition for Limited Intervention, concurrence of the Applicants in this Motion as provided by has not been attempted.

WHEREFORE, NEPGA respectfully requests that the SEC:

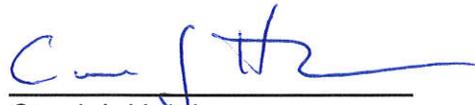
1. Reverse the Presiding Officer's March 18, 2016 ruling denying NEPGA's Petition for Limited Intervention and grant its request to be heard; and
2. Grant such other and further relief as the SEC deems just and reasonable.

Dated: March 28, 2016

Respectfully submitted,

**New England Power  
Generators Association, Inc.**

By its Attorney,



Carol J. Holahan  
141 Tremont Street  
Boston, MA 02111  
NH Bar No. 6584  
(617) 902-2354  
cholahan@nepga.org

**Certificate of Service**

I hereby certify that a copy of the foregoing Partially Assented-to Request for Reconsideration has on this 28th day of March 2016 been sent by email to the service list in 2015-06.

By:   
Carol J. Holahan