



For a thriving New England

CLF New Hampshire 27 North Main Street
Concord, NH 03301
P: 603.225.3060
F: 603.225.3059
www.clf.org

Via Hand-Delivery and Email

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

March 9, 2016

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, NH Site Evaluation Committee Docket No. 2015-06

Dear Ms. Monroe:

Please find enclosed for filing in the above-referenced matter an original and seven (7) copies of an Objection to Applicants' Request to Limit Conservation Law Foundation's Participation.

Copies of this letter and the attached have this day been forwarded via email to all parties on the Distribution List.

Thank you for your attention. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

Melissa E. Birchard

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

**OBJECTION TO APPLICANTS' REQUEST TO LIMIT
CONSERVATION LAW FOUNDATION'S PARTICIPATION**

In its response to Conservation Law Foundation's ("CLF's") Petition to Intervene as a party in the above-captioned proceeding, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, "Applicants"), state that they do not object to the intervention of CLF but nevertheless request that the Site Evaluation Committee ("SEC") (a) require CLF to combine its presentations of evidence, arguments, and cross-examination with those of four other organizations and (b) limit CLF's participation to three issue areas, as defined by the Applicants. The SEC should deny both requests.

ARGUMENT

A. The Consolidation of CLF and Other Parties Advocated by Applicants Would Hinder a Full Airing of the Issues and Decisional Completeness.

1. The Applicants' request for consolidation is a naked effort to limit the involvement of five experienced organizations, including potential expert criticism of the proposed project. The SEC should reject this request, as it would undermine important considerations including a comprehensive airing of the issues, decisional completeness, and the lawyer-client relationship.

2. In proposing to limit CLF's participation, the Applicants refer to the Commission's discretion to condition intervention under Site 202.11(d). The SEC recently applied Site 202.11(d) to consolidate certain pro se individual intervenors in Docket No. 2015-02. *See* Order on Petitions to Intervene, Docket No. 2015-02 (February 16, 2016). The organizations that Applicants seek to consolidate are not similar to those parties. Rather, CLF and other organizations for which Applicants seek consolidation are experienced at providing non-duplicative analysis and argumentation and have different interests unique to their respective missions and memberships.¹ Further, CLF and others of the named organizations are represented by legal counsel whose obligations to their clients could be compromised by non-voluntary consolidation. Consolidation of the type Applicants propose would be contrary to Site 202.11(e), which bars consolidation that would prevent an intervenor from protecting its interests.

3. CLF anticipates that its analysis will be of unique value distinct from that of other intervenors, spanning energy subjects and other diverse issue areas. CLF's expertise in the energy arena derives from its participation in the creation of New England's organized energy markets and the planning of its electric grid. CLF has served as an intervenor in a wide range of energy-related administrative proceedings in New Hampshire, across New England, and before the Federal Energy Regulation Commission. CLF has provided analysis of legal, technical, and economic aspects of the Northern Pass project since 2010. CLF is a participant before the U.S. Department of Energy in its Northern Pass-related proceedings under the National

¹ Each named organization has a distinct interest – whether it be representing its property rights, as with the Forest Society, its members' enjoyment of outdoor activities, as with Appalachian Mountain Club, or local concerns, as with the Ammonoosuc Conservation Trust. CLF is the only regional organization with a significant focus on energy matters and related natural resource issues.

Environmental Policy Act and pursuant to Section 106 of the National Historic Preservation Act. CLF's unconsolidated intervention is in the interests of justice and should be granted.

B. To Limit CLF's Participation to Certain Issues at this Stage Would Be Arbitrary and Contrary to Justice.

4. Applicants further seek to limit the participation of CLF and other groups to three issue areas set forth by the Applicants. Although the five relevant environmental organizations each described their interests differently in their respective interventions, Applicants' Response purports to summarize all of those issue areas in three general categories. These categories should be rejected for three reasons.

5. First, Applicants should not be permitted to frame the issues for other parties. This would be contrary to justice and would set a dangerous precedent.

6. Second, the issue categories that Applicants propose should be rejected because they are so broad as to be almost meaningless. The reason the three categories are so broad is because it would otherwise be impossible to group the five organizations under a single combined set of issues. While Applicants cite the Commission's conditional grant of intervention to Sierra Club in Docket No. 2009-02 (the Laidlaw Berlin Biopower case) for support on issue limitation, there a single intervenor was limited to a well-defined and self-described subject area. Order on Pending Motions, Docket No. 2009-02 (March 24, 2010) ("NHSC describes its substantial interest in this docket as being the sustainability of the Applicant's forest management plan and the impacts of that plan on New Hampshire's northern forest."). The instant circumstances bear little similarity.

7. Third, to circumscribe at this early stage the issues that CLF may address would be arbitrary and not in the interests of justice. At such an early stage there may be relevant issues that have not yet been aired. As an experienced intervenor represented by legal counsel, CLF is

capable of managing the scope of its participation in an efficient manner. Applicants have no basis to suggest otherwise.

WHEREFORE, the Site Evaluation Committee should reject Applicants' request that five organizations, including Conservation Law Foundation, be required to combine their presentations of evidence, arguments and cross-examination, and that their participation be limited to certain issue areas.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

BY: _____

Melissa E. Birchard
Staff Attorney
Conservation Law Foundation
27 N. Main Street
Concord, NH 03301
(603) 225-3060 x3016
Fax (603) 225-3059
mbirchard@clf.org

March 9, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has on this 9th day of March 2016 been sent by email to the service list in Docket No. 2015-06.

_____

Melissa E. Birchard
Staff Attorney
Conservation Law Foundation