

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

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 the Construction of a New High Voltage Transmission Line in New Hampshire

Docket No. 2015-06

**MUNICIPAL GROUPS 1 SOUTH, 2, 3 SOUTH, 3 NORTH AND SOCIETY FOR THE
PROTECTION OF NEW HAMPSHIRE FOREST'S MOTION TO COMPEL
DEPOSITION OF JAMES A. MUNTZ**

Municipal Intervenor Groups 1 South, 2, 3 South, 3 North, and the Society for the Protection of New Hampshire Forests ("SPNHF") (collectively "the Parties") submit this motion to compel a deposition of James A. Muntz, stating as follows:

1. The Parties move to depose Mr. Muntz as he is a unique and integral decision maker for the Applicant, yet as of September 15, 2016, is no longer being offered as a witness in support of the Application before the SEC. Site 202.12(l) states that "[t]he presiding officer or any hearing officer designated by the presiding officer shall authorize other forms of discovery, including technical sessions, requests for admission of material facts, depositions, and any other discovery method permissible in civil judicial proceedings before a state court, when such discovery is *necessary to enable the parties to acquire evidence admissible in a proceeding.*" (Emphasis added). The Parties believe they have satisfied this burden as explained below.

2. By letter dated October 19, 2015, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy ("NPT" or "the Applicant") jointly submitted an application ("Application") to the Site Evaluation Committee ("SEC") for a Certificate for Site and Facility for the construction and operation of a new 1,090 MW electric transmission line to run from the Canadian border in Pittsburgh to the Town of Deerfield ("the Project").

3. By order dated December 18, 2015, a designated Subcommittee of the SEC accepted the Application as complete. By order dated June 23, 2016, the Chair of the SEC issued a Procedural Order, whereby NPT was to conduct its Technical Sessions with its witnesses in support of the Project from September 5, 2016 to September 30, 2016.

4. On or about August 5, 2016, SEC Administrator Monroe issued a Technical Session Agenda, which established the dates for when the Applicants' witnesses would be available for questioning. In that agenda, James A. Muntz was listed as a witness, along with William Quinlan, on September 21st for the "Project Route Selection, Forward NH Plan, NH-Specific Benefits, Clean Energy RFP, etc.". Mr. Muntz's pre-filed testimony identifies him as the President of Transmission for Eversource Energy.

5. By letter dated September 15, 2016, the Applicants substituted William J. Quinlan and Kenneth Bowes for Mr. Muntz, stating that Mr. Quinlan and Mr. Bowes intend to adopt Mr. Muntz's pre-filed testimony.

6. On or about September 22, 2016, SEC Administrator Monroe issued a Revised Technical Session Agenda which pushed back the Quinlan and Bowes (for Muntz) technical session to October 11, 2016.

7. Even to the extent that the Applicants assert that Mr. Quinlan and Mr. Bowes are adequate and equal substitutions for Mr. Muntz, the substitution deprives the parties to the SEC proceeding from the opportunity to obtain admissible evidence from Mr. Muntz regarding his unique and integral involvement and decision making related to the Project. The Parties move to depose Mr. Muntz to gain access to this information that is vital to the Parties participation in this proceeding.

8. Mr. Muntz's pre-filed testimony was presented to provide input to the SEC and to support the Application regarding: "...the Project's inception and the route selection process, how the Project design was modified over time, the federal permitting process, and NPT's participation in [the Clean Energy RFP]...[as well as] the Applicant's technical and managerial capability to construct and operate the Project." See Pre-Filed Testimony of Mr. Muntz, Volume II of the Application, page 1, lines 23-27. In addition, as required by SEC rules and state law, Mr. Muntz executed the Application to the SEC on behalf of Northern Pass Transmission LLC, one of the joint applicants. See Application, Volume I(a), page 1; see also Site 301.03(a) and RSA 162-H:8.

9. As acknowledged by the Applicant during a recent technical session, Mr. Muntz is apparently the individual responsible for all high-level decision making regarding the topical areas within the scope of his pre-filed testimony noted above. During the Environmental Panel technical session conducted on September 22, 2016, SPNHF asked the panel to identify the individual that, to their respective understanding, was responsible for making high-level decisions for the Applicant on questions such as final design and route selection. The panel responded by all indicating that they believed Mr. Quinlan to be the individual making these high-level decision. Eversource Energy's Senior Counsel, Marvin Bellis, then responded directly to SPNHF, and corrected the testimony provided by the panel, stating that at all times James Muntz is the individual making such high-level decisions regarding the Project. As Senior Counsel to Eversource, Attorney Bellis is in a position to know or be aware of the individual responsible for making such high-level decisions regarding the Project.

10. The failure to include Mr. Muntz as a witness thus deprives the Parties of the opportunity to question Mr. Muntz on the various factors he considered, factors he chose not to

consider, the weight and credibility he gave to each, the decision making process, and the ultimate high-level decisions made regarding Project inception, route selection, route design, federal permitting, the Clean Energy RFP, and technical/managerial capability. Mr. Quinlan and Mr. Bowes, while capable and qualified to speak to their respective areas of expertise and support for the Application, are simply incapable of inserting themselves into the head of Mr. Muntz to speak for him and explain how he arrived at the various high-level decisions that he made for the Project. A deposition of Mr. Muntz is thus necessary for the Parties to “acquire evidence admissible in a proceeding.” See Site 202.12(l).

11. Further, the substitution of Mr. Quinlan and Mr. Bowes for Mr. Muntz is unlike the earlier substitutions that the Applicant has already chosen to make, e.g. Mr. Andrew for Mr. Bentley to name but one. In contrast to those earlier substitutions, Mr. Muntz is uniquely responsible for many of the most critical decision affecting the Project. In terms of why and how the Project came to be what is currently before the SEC, Mr. Muntz is the only individual that can adequately speak to that evolution and decision making process.

12. The Applicant was contacted and does not assent to the within motion. Upon information and belief, the substitution at issue herein was not due to health reasons.

13. The following parties were contacted and assent: Counsel for the Public, NEPGA, Kevin Spencer & Mark Lagasse dba Lagaspence Realty, LLC, NGO Intervenor’s Group, Clarksville-Stewartstown Non-Abutters Group, Deerfield Abutters Group, Pemigewasset River Local Advisory Committee, and Ashland to Allenstown Abutters Group. All other parties did not respond prior to filing.

WHEREFORE, it is respectfully requested that the Site Evaluation Committee:

- A. Order a deposition of Mr. Muntz, to be scheduled within 60 days of the date of any such order; or
- B. In the alternative, order that Mr. Muntz shall appear at the October 11th Technical Session Panel as a witness for the Applicant to answer questions regarding his involvement with the Project and pre-filed testimony, or at a mutually agreeable time; and
- C. Grant such other and further relief as may be just.

Respectfully submitted,

**MUNICIPAL GROUP 1 SOUTH
MUNICIPAL GROUP 2
MUNICIPAL GROUP 3 NORTH
MUNICIPAL GROUP 3 SOUTH**

TOWNS OF BRIDGEWATER, NEW HAMPTON,
LITTLETON, WOODSTOCK, DEERFIELD, and
ASHLAND WATER & SEWER DISTRICT

By and through its attorneys,

MITCHELL MUNICIPAL GROUP, P.A.

Dated: September 29, 2016

By:



Steven M. Whitley, Esq., Bar #17833
25 Beacon Street East
Laconia, New Hampshire 03246
Telephone: (603) 524-3885
steven@mitchellmunigroup.com

TOWNS OF BETHLEHEM, BRISTOL, EASTON,
FRANCONIA, NORTHUMBERLAND,
PLYMOUTH, SUGAR HILL and WHITEFIELD

By and through their attorneys,

GARDNER, FULTON & WAUGH, PLLC

Dated: September 29, 2016

By:


C. Christine Fillmore, Esq., Bar #13851
Gardner, Fulton & Waugh, PLLC
78 Bank Street
Lebanon, NH 03766-1727
Tel. (603) 448-2221
Fax (603) 448-5949
cfillmore@townandcitylaw.com

CITY OF CONCORD

Dated: September 29, 2016

By:


Danielle L. Pacik, Esq., Bar #14924
Deputy City Solicitor
41 Green Street
Concord, New Hampshire 03301
Telephone: (603) 225-8505
Facsimile: (603) 225-8558
dpacik@concordnh.gov

**SOCIETY FOR THE PROTECTION OF
NEW HAMPSHIRE FORESTS**

By its Attorneys,
BCM Environmental & Land Law, PLLC

Date: September 28, 2016

By:



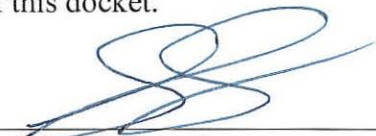
Amy Manzelli, Esq. (17128)
Jason Reimers, Esq. (17309)
Elizabeth Boepple, Esq. (20218)
3 Maple Street
Concord, NH 03301
(603) 225-2585
manzelli@nhlandlaw.com
reimers@nhlandlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of September 2016, a copy of the foregoing was sent by electronic mail to persons named on the Service List of this docket.

Dated: September 29, 2016

By:


Steven M. Whitley, Esq.