

The 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 to Construct a New Voltage Transmission Line and
Related Facilities in New Hampshire**

**Motion for Reconsideration of the Chair's October 28, 2016, Order Denying the Kevin
Spencer and Mark Lagasse dba Lagaspence Realty, LLC Motion to Compel Responses to
Data Requests Directed to Applicants' Expert Julia Frayer**

Status of Case

The Kevin Spencer and Mark Lagasse Data Requests were directed to the heart of the Frayer testimony and Cost-Benefit Analysis, e.g., that New Hampshire retail customers are expected to realize \$79.9 in savings should the Northern Pass be constructed.

Data Request 2 asked for the source data Ms. Frayer used to make the savings calculation.

Data Request 3 asked for the Frayer savings calculations.

Data Request 4 asked for the identities of the Eversource executives or other employees who instructed Ms. Frayer to redact significant portions of her testimony and Cost-Benefit Analysis.

Applicants provided inadequate responses to the Data Requests.

Intervenors filed a timely Motion to Compel which fully detailed the basis of the response inadequacy.

On October 28, 2016, Chairman Honigberg denied interveners' Motion to Compel.

Motion for Reconsideration

Kevin Spencer and Mark Lagasse dba Lagaspence Realty, LLC, respectfully move the Site Evaluation Committee as a body for an Order reconsidering the Order of Mr. Honigberg denying the Motion to Compel.

Memorandum

The Chairman's Order denying interveners' Motion to Compel is unreasonable because it is based upon a misapprehension of the nature of the evidence sought. Central to the page 5 Analysis in the Order is the Chairman's acceptance of the Applicants' representation that the Frayer savings calculations are confidential. The Chairman notes that Applicants are willing to provide the calculations if interveners sign a confidentiality agreement.¹

The Chairman's assumption that the evidence sought is confidential is mistaken. The information that interveners sought is not confidential nor should it be.

Interveners Spencer and Lagasse Data Requests sought the data and calculations underlying the Frayer Cost-Benefits Analysis at Section 5.9 (page 59) in which Ms. Frayer concluded that the retail cost savings would be \$79.9 million. Ms. Frayer elaborated on her cost savings claim at Appendix D of her Analysis (pages 111-113). The Frayer calculations were, as she has expressly acknowledged, based upon public data. The Applicants have not redacted the retail cost savings number nor the Appendix D material.² Interveners requests are compliant with the May 25, 2016, Order on Motion for Protective Order and Confidential Treatment.

¹ Interveners Spencer and Lagasse have declined to sign a confidentiality agreement. The execution of such agreements blocks vigorous public challenge to evidence subject to such agreements. The Frayer evidence has been submitted by Applicants to support the public interest finding required of the Committee by RSA 162-H:16, IV (e). Such agreements prevent the public from knowing the factual basis of a Committee public interest determination should such determination be based on confidential evidence, a matter that goes to the integrity of the process.

² Figure 30 of the Frayer Analysis which purports to show the \$79.9 savings has been redacted. Applicants have refused to identify the Eversource personnel who ordered the redactions making it difficult to ascertain why Figure 30 was redacted. The redaction undercuts the veracity of Applicants' widely publicized claim that the project will save retail customers \$80 million dollars.

Concurrence

Interveners' have not sought Applicants' concurrence as concurrence would not be forthcoming.

Wherefore

Kevin Spencer and Mark Lagasse dba Lagaspence Realty, LLC, request:

1. Reconsideration of the October 28, 2016, Order Denying their Motion to Compel Data Requests Directed to Julia Frayer; and,
2. An Order compelling Applicants to comply with their Data Requests.

Respectfully submitted,

November 4, 2016

/s/ Arthur B. Cunningham

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Certificate

I certify that this document was served in accordance with the New Hampshire Site Evaluation Committee Rules.

November 4, 2016

/s/ Arthur B. Cunningham

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