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June 23, 2017

**Via Electronic Mail & Hand Delivery**

Pamela Monroe, Administrator  
New Hampshire Site Evaluation Committee  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

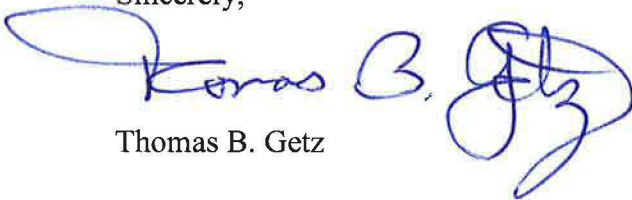
**Re: Site Evaluation Committee Docket No. 2015-06  
Joint Application of Northern Pass Transmission LLC and Public Service Company  
of New Hampshire d/b/a Eversource Energy (the "Applicants") for a Certificate of  
Site and Facility  
Objection to SPNHF's Expedited Motion to Compel**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of an  
Objection to SPNHF's Expedited Motion to Compel.

Please contact me directly should you have any questions.

Sincerely,



Thomas B. Getz

TBG:slb

cc: SEC Distribution List

Enclosure

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**SEC DOCKET NO. 2015-06**

**JOINT APPLICATION OF NORTHERN PASS TRANSMISSION LLC &  
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
D/B/A EVERSOURCE ENERGY  
FOR A CERTIFICATE OF SITE AND FACILITY**

**OBJECTION TO SPNHF'S EXPEDITED MOTION TO COMPEL**

NOW COME Northern Pass Transmission LLC ("NPT") and Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") (collectively the "Applicants"), by and through their attorneys, McLane Middleton, Professional Association, and respectfully submit this objection to the June 14, 2017 Expedited Motion to Compel of the Society for the Protection of New Hampshire Forests ("SPNHF"), seeking production of the Work Force Study ("Study") authored by PolEcon Research on behalf of The Balsams. The Site Evaluation Committee ("SEC" or "Committee") has already ruled on this issue and determined that the Study, in draft or final form, is not relevant to this proceeding.

**I. Introduction**

1. On January 19, 2017, SPNHF issued a data request to The Balsams requesting that "[u]pon finalization, provide the study the Balsams [undertook] regarding the existing and future labor force in the North Country." *Memorandum Re: January 19, 2017 Technical Session Memorandum*, 1 (Jan. 23, 2017).

2. Subsequently, on March 10, 2017, the Presiding Officer denied SPNHF's motion to compel production of the Study. The Presiding Officer found that the "information sought by the Forest Society is neither relevant nor reasonably calculated to lead to the discovery of

admissible evidence in this docket.” Order on the Society for the Protection of New Hampshire Forests’ Motion to Compel, 3 (“March 10 Order”).

3. In its Expedited Motion, SPNHF makes a number of claims. First, it says that the “Presiding Officer’s rationale for denying the Motion was that the study is not yet complete.” Second, it says that “[i]t is now clear that the final study is in fact being used by the Applicants, Applicants’ witnesses, and/or Project proponents to support the claim that the Project will bring benefits to the State and is in the public interest.”

## **II. Discussion**

4. The Presiding Officer’s entire analysis in the March 10 Order is repeated below.

The information sought by the Forest Society is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in this docket. The Forest Society seeks to compel documentation and information pertaining to a study that does not yet exist, based on its presumption that Mr. Otten relied on such information in making conclusions regarding the existing and potential labor force of the North Country. The Forest Society assumes that the information will be useful in assessing the credibility of Mr. Otten’s testimony. That study, in either draft or final form, has not yet been completed, and Mr. Otten therefore could not have relied on it in making any conclusions relevant to this docket. While the Forest Society asserts that the information is relevant to illuminating the relationship between the \$2 million loan and the determination that the issuance of a certificate of site and facility will serve the public interest, the Forest Society fails to articulate how such information may be relevant to such a determination. The Forest Society’s Motion to Compel is denied.

5. SPNHF miscasts the Presiding Officer’s decision when it says that the rationale for denying the motion to compel was that the Study was incomplete. While the fact that the Study was not complete appears to be the reason that the Presiding Officer concluded that it could not be a basis for assessing Mr. Otten’s credibility, the Presiding Officer determined as a general matter that the Study is not relevant to a determination whether the Project is in the public interest.

6. Furthermore, SPNHF is wrong when it says that the Applicants are relying on the Study “to support the claim that the Project will bring benefits to the State and is in the public interest.” As evidence, SPNHF points to the April 17, 2017 Forward NH Plan Newsletter. The newsletter, however, merely recites some limited information derived from a press release issued by The Balsams. More important, the Applicants rely on the testimony of Julia Frayer regarding the benefits from jobs resulting from the Project. To be clear, the Applicants do not rely on the Study as part of its Application before the Committee and they do not possess the Study.

7. In addition, SPNHF conflates separate issues in its quest for the Study. It wants the Committee to compel The Balsams to produce a Study it conducted, independent from this proceeding, while arguing that the Applicants are relying on the Study, which they are not. Most critically, however, as explained below, SPNHF fails to show why the Presiding Officer’s Order is no longer dispositive.

8. SPNHF contends that “[t]he Presiding Officer’s rationale for denying the Motion was that the study is not yet complete.” Motion at 2. It then goes on to say that “[t]he Presiding Officer further explained that because the study was incomplete, Mr. Otten ... could not have relied on it in making any conclusions relevant to this docket.” Id. SPNHF’s characterization removes the issue from the context of the Presiding Officer’s analysis. He explained that the study “in either draft *or final* form, has not yet been completed, and Mr. Otten therefore could not have relied on it in making any conclusions relevant to this docket.” Order at 3 [emphasis supplied]. Contrary to SPNHF’s assertion, the status of the Study does not bear on the Presiding Officer’s ultimate decision, but is confined to the subsidiary conclusion that Mr. Otten could not have relied on it in forming his opinion of the Project.

9. SPNHH's data request specifically requested production of the study "upon finalization." *Memorandum Re: January 19, 2017 Technical Session Memorandum*, 1 (Jan. 23, 2017). Its motion to compel relative to that data request was denied. If SPNHF had qualms about the Presiding Officer's denial of its motion to compel, it should have filed a motion for rehearing by April 10, 2017.

### **III. Conclusion**

10. Completion of the Study does not equate to changed circumstances that would justify its production as part of this proceeding. It was clearly anticipated by SPNHF and the Presiding Officer that the Study would be completed. Furthermore, if the Presiding Officer had intended that the Study should be produced "upon finalization" he could have said so or provided that his decision was without prejudice to a later motion to compel.

11. Finally, the study may be complete but it has not been introduced into evidence either by The Balsams or the Applicants, and SPNHF has not articulated how the information is relevant to a determination that the Project serves the public interest. Therefore, the Study, as was the case at the time of the March 10 Order, is not relevant to this proceeding.

WHEREFORE, the Applicants respectfully request that the Site Evaluation Committee:

- A. Deny the Motion to Compel; and
- B. Grant such further relief as is deemed just and appropriate.

Respectfully submitted,

Northern Pass Transmission LLC and  
Public Service Company of New Hampshire d/b/a  
Eversource Energy

By Its Attorneys,

McLANE MIDDLETON,  
PROFESSIONAL ASSOCIATION

Dated: June 23, 2017

By: 

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Certificate of Service

I hereby certify that on the 23<sup>rd</sup> of June, 2017, an original and one copy of the foregoing Objection was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.

  
Thomas B. Getz