

**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**

July 13, 2016

**ORDER ON MOTION TO EXTEND DEADLINE
AND MOTIONS TO CLARIFY**

I. Background

On October 19, 2015, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively Applicant) submitted an Application to the New Hampshire Site Evaluation Committee (Committee) for a Certificate of Site and Facility (Application) to construct a 192-mile transmission line. The transmission line is proposed to have a capacity rating of up to 1,090 MW, and to run through New Hampshire from the Canadian border in Pittsburg to Deerfield.

On April 22, 2016, an Order and Temporary Procedural Schedule was issued that set staggered deadlines for propounding data requests on the Applicant. On May 2, 2016, the Society for the Protection of New Hampshire Forests (Forest Society) filed a Motion to Clarify Temporary Procedural Schedule, requesting clarification as to whether the Forest Society would have an opportunity to propound a second set of data requests regarding certain pending requests made by the Applicant. A number of the Intervenors joined and concurred in the Forest Society's

request.¹ None of the Intervenors, however, made an independent request to propound a second round of data requests upon the Applicant.

An Order on Pending Motions and Procedural Order was issued on June 23, 2016. As the result of litigation over the Applicant's request for a protective order, the Forest Society was deprived of the opportunity to review documentation that pertains to the effect of the Project on the economy of the region and state, the natural environment, and historic sites. The Forest Society's request was granted in part and the Forest Society was allowed to propound a second set of data requests addressing issues raised in the confidential documents on or before July 8, 2016. The Order also provided that the New England Power Generators (NEPGA) could propound a second set of data requests on or before July 8, 2016, to address issues raised in the economic benefits report and the associated pre-filed testimony filed by the Applicant.

Following the issuance of the Order, the Subcommittee received the following motions:

- The Towns of Bridgewater, Bristol, Easton, Franconia, Littleton, New Hampton, Northumberland, Sugar Hill, Whitefield, and Woodstock, the City of Concord and the Ashland Water & Sewer Department's Motion for Clarification of Chair's June 23, 2016 Order on Pending Motions and Procedural Order;
- The Grafton County Commissioner's Motion to Clarify Order Dated June 23, 2016 on Pending Motions and Procedural Order;

¹ The Towns of Bridgewater, Bristol, Easton, Franconia, Littleton, New Hampton, Northumberland, Sugar Hill, Whitefield and Woodstock, the City of Concord, the Ashland Water & Sewer Department, the Ammonoosuc Conservation Trust, the Appalachian Mountain Club, the Conservation Law Foundation, the NH Sierra Club, the Grafton County Commissioners, the Ashland-Deerfield Non-Abutters, the Town of Dalton Selectboard and Conservation Commission, the Deerfield Abutters, Mark Orzeck, Robert Tuveson, Mary A. Lee, Susan Schibanoff, and Cheryl K. Jensen.

- Motion of the NGO Intervenors² for Clarification of the June 23, 2016 Order on Pending Motions and Procedural Order;
- Forest Society Motion to Extend Deadline;and
- NEPGA Motion Requesting an Extension of Time

The Applicant assented to all of the motions. On July 11, 2016, the Applicant submitted a letter clarifying that while it assented to the requests to propound data requests and/or extensions of time to do so, the assent in each case was subject to the overall limitation on a party's number of data requests and extended only so far as a party has data requests remaining. This Order addresses: (i) the Intervenors Motions to Clarify Order on Pending Motions and Procedural Order filed by the parties; (ii) the Forest Society's Motion to Extend Deadline; and (iii) NEPGA's Motion for an Extension of Time in which to Propound Data Requests.

II. Analysis and Findings

A. Motions to Clarify

The Intervenors argue that by joining with the Forest Society they requested an opportunity to propound a second round of data requests upon the Applicant. The Intervenors request clarification of the Order and state that, similar to the Forest Society, the Intervenors should be permitted to file a second round of data requests pertaining to the confidential information.

The Order on the Applicant's Motion for Protective Order and Confidential Treatment was issued on May 25, 2016. Prior to issuance of the Order, the Intervenors did not have access to the confidential information. Consequently, the Intervenors whose data requests were due on May 31 and June 7, 2016, were unable to propound data requests addressing information

² The Conservation Law Foundation, the Appalachian Mountain Club, the Sierra Club Chapter of New Hampshire, and the Ammonoosuc Conservation Trust.

contained in the confidential documents. The confidential information may be relevant to the effect of the Project on the economy of the region and state, the natural environment, and historic sites. The Intervenors should be given an opportunity to address the information and conduct discovery on issues contained in those documents. All Intervenors in this docket who have access to the confidential documents, subject to the conditions in the Order on Motion for Confidential Treatment, may propound a second round of data requests addressing issues raised in the confidential documents on or before August 8, 2016. The Applicant shall respond to the Intervenors' data requests addressing issues raised in the confidential documents on or before August 26, 2016.

B. Motions to Extend Deadline

The Forest Society explains that it collaborated with the Applicant and agreed on the form of a confidentiality agreement, executed it and received the documents on July 5, 2016. The Forest Society argues that it will not have sufficient time to analyze the documents and prepare data requests by July 8, 2016, as originally ordered. The Forest Society requests an extension of time to propound a second set of data requests on the information contained in the confidential documents on or before July 20, 2016. The Applicant assents to the Forest Society's request.

The Forest Society's request to extend the deadline is reasonable. Extension of the deadline will not cause undue delay and will not obstruct the orderly development of these proceedings. Considering that all other Intervenors are allowed to propound a second round of data requests on the information contained in the confidential documents on or before August 8, 2016, it is reasonable to allow the Forest Society an extension of time to propound data requests to the Applicant on or before July 20, 2016. The Applicant shall respond to the data requests on or before August 19, 2016.

NEPGA states that despite good faith efforts by its counsel and counsel for the Applicant, that they did not reach agreement regarding confidentiality until July, 8, 2016. NEPGA argues that it has not yet had an opportunity to review the confidential information and requests an extension of time to propound its second set of data requests on economic issues on or before July 25, 2016. The Applicant assents to NEPGA's request.

NEPGA's request to extend the deadline is reasonable. Extension of the deadline will not cause undue delay and will not obstruct the orderly development of these proceedings. Considering that all other Intervenors are allowed to propound a second round of data requests on the information contained in the confidential documents on or before August 8, 2016, it is reasonable to allow NEPGA an extension of time to propound data requests to the Applicant on or before July 25, 2016. The Applicant shall respond to the data requests on or before August 24, 2016.

C. Conclusion

The motions to clarify and allow the Intervenors an opportunity for a second set of data requests related to the confidential information are granted, subject to the limitation on the overall number of data requests as set-forth in Site 202.12(b), or if otherwise granted in an order issued by the Committee

The motions to extend the deadline to propound a second set of data requests to the Applicant is granted.

The second set of data requests shall be propounded to the Applicant by: (i) July 20, 2016, (Forest Society); (ii) July 25, 2016, (NEPGA); and (iii) August 8, 2016 (all other Intervenors who have access to the confidential documents, subject to the conditions in the Order on Motion for Confidential Treatment).

The Applicant shall respond to the second sets of data requests by: (i) August 19, 2016 (Forest Society); (ii) August 24, 2016 (NEPGA); and (iii) August 26, 2016 (all other Intervenors who have access to the confidential documents, subject to the conditions in the Order on Motion for Confidential Treatment).

SO ORDERED this thirteenth day of July, 2016 by the Site Evaluation Subcommittee:



Martin Honigberg, Presiding Officer
Site Evaluation Committee