

**Carmody, Jody**

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**From:** darlene.kingrealtynh@roadrunner.com  
**Sent:** Saturday, March 19, 2011 4:55 PM  
**To:** Undisclosed-Recipient;  
**Subject:** Fw: March 19th No Northern Pass Update  
**Attachments:** Scoping\_Dannis.docx

----- Original Message -----

**From:** [darlene.kingrealtynh@roadrunner.com](mailto:darlene.kingrealtynh@roadrunner.com)  
**Sent:** Saturday, March 19, 2011 4:53 PM  
**Subject:** March 19th No Northern Pass Update

**Tonight** is Colebrook and  
**Sunday** Haverhill public hearing for the DOE SCOPING  
 Hours:

**TUESDAY According to notification** ( Senator Forester, Representative Bill Remick and Rep Charlie Brosseau) 10:15 On Tuesday March 22nd will be the rehearing on HB 648+649 . I have been told they will be hearing them together in this hearing in LOB(Legislature Office Building) Rm 304 . We have been told that the hearing will be open to the public but that the public will not be able to give testimony or talk . This hearing will include the NH PUC and Judiciary Committee and the STE committee. With permission the committee may ask members of the audience with appropriate knowledge that they might need a question. Otherwise all discussion will be within the committee. It is important for anyone that can be there to be there with your orange on .

Correction for Whitefield comments: Apparently while Rich Macleod was in attendance at the Whitefield hearing , he was there as a private citizen. Last nights attendance (Friday in Plymouth )was the first time that **any one was in attendance representing the GOVERNOR**. What are we to think, Governor? Hope that Kevin Saba's comments are brought back to you (Governor Lynch's office and also to the office of our other national leaders Senator Shaheen, Senator Ayotte, Representative Bass and Representative Guinta). Kevins words: " All of you that are here in attendance on behalf of one of our political leaders and that leader has not gotten off the sideline and joined us in the fight , it would be smart of you to be looking for a new job" . Not his words exactly but you get the meaning. Any one that is not stepping up to join in protecting the state can be sure that their prospects of reelection are going to be zip. Governor, we know you can not be reelected for another term but I will extend what Kevin said pointedly and say to you (1) if you have further political ambitions you might take heed Kevin's words as he mouths what has passed out of many a mouth and (2) You really should anyway, How you handle this will define your terms in office - it will be your legacy. Everything you have done up to now will not be remembered , we will remember this! I do not think with all the good you did for NH that you want to leave this office with your tail between your legs. That is what you will do if you do not step up to the plate before the people see you as selling us out. This is a warning , that time is not far upon us. I have hears this sentiment from the mouths of many followed by often by this is not my threat but my promise. When you look to the numbers of signs popping up all over the place and the numbers of those coming to these meetings speaking in oppositon and or wearing of orange, you have to know this is not something that will die down and go away- we will only get stronger. Reiterating the theme sounded by Senator Forester and Members of Plymouth Administration this is a defining moment in history, it is the most important issue to face NH in generations and its impact will be felt for generations to come. LIVE FREE OR DIE, that is the NH way. Step up and help us to do so.

----- Original Message -----

**From:** Bury Northern Pass

**To:** undisclosed-recipients:

**Sent:** Friday, March 18, 2011 4:23 PM

**Subject:** Time sensitive scoping comment notice and HB 648

If you have not already sent in your scoping comment--or if you are prepared to send in additional material by April 12--we'll have some examples of key issues that others have been raising for you to consider soon, although probably not until early next week. Hold your submission if you care to see them.

For now, however, one time-sensitive matter that you might want to consider for your oral comment if you have not delivered it yet is to join the motion requesting that the DOE suspend the application of Northern Pass and reconsider it when complete. The attached motion was filed in supplement to the 3-minute public comment made last night in Whitefield. It is now part of the public record. It formalizes calls made in Pembroke and elsewhere to demand that Northern Pass provide full information in order for public participation in the EIS to be meaningful.

Also, I talked to Anne Bartosewicz, project director for NP, last night and asked her directly how the proposed DC line could be fit on the 10-mile long WMNF special use corridor (X-178) that is 150' wide and currently has an AC line running down its center, leaving only 75' either side, which is too narrow to install the proposed new DC line alongside the AC. Bartosewicz said, no problem, the plan is to move the current AC line to one edge of the special use corridor and to install the new DC line on the other edge. (NP cannot take land by eminent domain from the feds; 150' is all they have.) To her, this apparently presented no impact issues. To me, it adds insult to injury. On federal land, the WMNF, NP plans in essence to install two new lines. They'd have to dig up the AC line and install it again as well as install the new DC line. And this would be happening in the highly fragile wetland area of Bog Pond on the east side of the Kinsman Ridge. The AT crossing would also take a big hit as there is a large concrete block for the AC poles there if I remember correctly. I have already testified twice in these hearings and will not make a third appearance. (Familiarity desensitizes.) I will include this new info in my written comments, however. If you care to mention it in your oral comments, Tom Wagner, WMNF supervisor, present at all hearings, will hear it directly from you.

Normandeau was out on the WMNF corridor in summer 2010 assessing the wetland situation. From that material, presumably NP has already drawn up its plan of where they'll place those useless little plastic vanity barriers to "mitigate" construction effects of re-installing the AC line. That simply won't do.

Finally, in the "we never said it would be easy category," HB 648 is coming up again this Tuesday, we have heard just today. Analysis of this sudden change will be forthcoming when it is digested enough to make some sense of it. In the meanwhile, if you can get to Concord Tuesday morning, even though there will apparently be no opportunity for public input, please pencil it in and stay tuned.

Off to Plymouth!(this was sent after March 18th update )

A couple of notations on the above information on the National Forest lines (1) there is approximately 1/4 mile of the the 11 miles of National Forest in which the right of way is only 100 feet . Up until now they have been telling us that in order to get a 90-135 foot DC tower and a 45-80 foot AC pole on the same right of way the need to have 150 feet ROW dependent on the steepness of the terrain. That the lines need to be a minimum of 100 feet apart from each other . (2) They have been telling us all along that they are not taking into account any fall zone (which I find completely unbelievable but....) This appears to be another inconsistency - about the info above on the National Forest Lines. Northern Pass has all along talked about moving the current ac power lines and putting the new lines in the center. It appears that Anne Bartosewicz is changing that tune. Before they were telling us that the 150 foot right of ways were adequate for both lines as with the DC lines being in the center and the ac lines being to the right or the left they told us they achieved the 100 foot width that they needed between them by going up (The current ac Pole are on 50-80 foot towers by moving them to the left or right to the boundry lines set back they would gain 35 feet (75 foot center line -20(one half of the base of the tower- average set back of 20=35 assuming that there is a set back for high tension towers or poles - which I can not confirm or deny online ) so the tower would have to be 75-115 feet high depending on the height of the Ac pole and depending on flat terrain- which everyone knows it is not ). Here she is saying that the towers would be on either side of the right of way in order to achieve the required depth from each other and are not allowing for any set backs(which is not allowable in any town that I am aware of). Utility poles

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FYI Utility poles and utility structures (plants are considered in this ) pay 6.60 per thousand of the assessed evaluation . When the Northern Pass indicates as they do on all their literature that they are paying the school portion of the taxes that is an outright lie. They pay a flat fee of 6.60 per thousand as oppose to \$20-40.00 per thousand of the evaluation on land, homes or commercial real estate which we all pay for our homes, land and businesses. For example Campton's taxes are 18.59 per thousand so if you have a home in Campton that is evaluated at \$200,000 you would pay taxes of \$3,718.00 . For the utility companies they would pay \$1320 for their utility poles and structures of equal value (200,000). Actual taxes paid currently on Utilities run an average of \$25,000-\$30,000 a mile at an average of 6 poles a mile or \$4,166-5,000 a pole . Utility poles range between 300-400 feet apart. Does not take a rocket scientist to figure pretty quickly that unless you are in a congested area 5,000 in taxes would be eaten up pretty quickly.

Statute: RSA 83-F

**What is it?** A tax of \$6.60 per \$1,000 of value of utility property is placed on all real estate, buildings and structures, machinery, dynamos, apparatus, poles, wires and pipelines located within New Hampshire employed in the generation, production, supply, distribution, transmission, or transportation of electric power, natural gas, crude petroleum, refined petroleum products, water, or sewage. Telephone and cable television lines and poles, water pollution control facilities, as well as property otherwise exempt from local taxation, are exempt from the utility property tax.

**Who pays it?** Utility property owners.

**When is the tax due?** The Utility Property Tax is due annually on or before January 15.

**Do I have to make estimated payments?** Yes. Contact the Community Services Division for information on estimates due for the current tax year. Declarations and payments of 25% of the estimated tax, based on the tax for the preceding year, are due on April 15, June 15, September 15, and December 15.

**Who do I contact with questions?** Property Appraisal Division, PO Box 487, Concord, NH 03302-0487, or call (603) 271-2687.

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Head count at 6:30 p.m., 650. 55 speakers, all opposed.

For the record, I count the crowd just before 6:30, when I begin to take notes. Ellen from DOE counts the crowd just after 6:30; she doesn't take notes. I compare my figure with hers at the break. We are always within 10 or 15. I accept Ellen's figure and report it here. All head counts are thus the DOE's, not mine, although they square with mine within 10 or 15. A total of 1,960 people have attended the first five hearings: 400 at Pembroke, 250 at Franklin, 320 at Lincoln, 340 at Whitefield, 650 at Plymouth. Over 200 people have spoken.

At Plymouth tonight, a student presence was not noticeable. The crowd was 95% residents from the Plymouth-Holderness-Campton-Thornton-Wentworth area.

PSNH/NP mounted a skeleton crew. Friday night, I guess they have other things to do. At the front table were the same representatives from DOE, Army Corps of Engineers, and USFS. Forest Supervisor Tom Wagner, headquartered in neighboring Campton, got a big hand. Representatives were again present from the offices of Sen. Ayotte, Sen. Shaheen, and Rep. Bass. (Where is the other Representative's representative?) "Back by popular demand," announced moderator George Kervitsky, was a representative from Governor Lynch's office, Eric Steltzer for tonight. What did George mean? Is he starting to turn orange after a week of listening to us?

It was a good listening night, too. Tom Mullen (Campton), who has a knack for turning Christmas lyrics into opposition art, composed "No Northern Pass" to the melody of "O Tannebaum" and performed it with Katie Rose at guitar. "This power's far from clean and green./There's something wrong with this whole scene." (In December, Tom retrofitted "Twas the Night before Christmas" to this "whole scene.") Kervitsky quipped that Christmas may never be the same for him. Tom and Katie singing together epitomized how people from different walks and stages of life--in this case, a successful and established business man and a young vocal artist just starting to make her way in the world--are working harmoniously to defeat Northern Pass. Katie managed to bend the rules a little further and perform her signature song, "Live Free or Die," next. The acoustics of the PSU theater served her well, and she opened up and let her voice soar.

Dominant themes in comments tonight were calls to end the project right now, calls to move the route to the existing HVDC corridor in VT and NH, calls to bury the line along interstates and abandoned rail beds or in the Connecticut River. Ray Damante (Concord and Lincoln) asserted that VT wants the new line (at least its politicians say they do). Others argued that since New Hampshire has an almost 50% excess capacity and New England has an 18% excess capacity, the power should be shipped via CHPE to the metropolitan New York area. Quentin Mack said the reason PSNH doesn't want to use the existing HVDC corridor is that it is owned by a competitor and the profits would be lower. A member of the Plymouth select board remarked that if the Northern Pass project had come before a local planning board, she would have called up the applicant and said, "why bother?" Gretchen Draper (New Hampton) wants the DOE to do an in-depth review of the environmental histories of all the companies involved, including HQ. Tom Thomson (Orford) made the point that Northern Pass will be an issue in the 2012 elections. (Kevin Saba reiterated this but directed to the people that were at the meeting who were there representing those that Serve us in Office. He said if the people you are here serving don't step up to the plate and oppose the Northern Pass, you might want to find yourself another job soon) An electrical contractor talked about how out-of-scale this project is for this environment. Two people talked about how incompatible a transmission line of this sort is with the cultural background of this area, which began attracting the White Mountain school of artists as early as 1830 (Thomas Cole) because of the natural scenic beauty here.

An interruption from the floor for a point of order to stop the project now was met by the moderator's warning that any further outbursts would result in police eviction. (EXECUTIVE COUNCILMAN OMAR AHERN- I thought that someone reported that Exec Councilman Ahern was supporting the Northern Pass. Glad to see that he is on has joined Executive Councilman Ray Burton in vocal opposition. )

The interrupter later apologized for the outburst. A man who developed a headache while testifying was helped out of the hall and taken to the hospital. Another man testifying was close to tears. Passions are running high. Make sure to breathe and count to ten. Tom Mullen had the last word and reminded everyone that the USFS (Supervisor Tom Wagner) has tremendous power in deciding whether or not to issue a special use permit for NP to go through the forest. He encouraged people to direct comments to the WMNF issues.

The meeting, which began early at 6:15, adjourned at 10:15.

Overall, the large turnout for this meeting intensified the overwhelming opposition of New Hampshire to Northern Pass. The message must be heard loud and clear in Concord. Colebrook tomorrow and Haverhill on Sunday will surely climax this unprecedented outpouring of protest against what Tom Mullen called the greatest "land grab" in New Hampshire's history. Public Service has probably tarnished its image forever as Public Disservice of New Hampshire. What were they thinking about--other than money?

I will take the day off tomorrow to breathe and recharge, but if anyone who attends Colebrook would like to send notes from the meeting, I would be happy to send them out. Thank you.

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

Northern Pass Transmission LLC  
Application for Presidential Permit

:

OE Docket No. PP-371

ALEXANDRA M. DANNIS AND JAMES G. DANNIS

**MOTIONS (1) TO REJECT APPLICATION AS INCOMPLETE, (2) TO REQUIRE APPLICATION TO BE SUPPLEMENTED WITH MANDATED INFORMATION ON ALTERNATIVES, (3) TO RESTART SCOPING PROCESS FOR ENVIRONMENTAL IMPACT STATEMENT AFTER APPLICATION IS SUPPLEMENTED, AND (4) TO HIRE INDEPENDENT CONSULTANTS TO ENSURE INTEGRITY OF EIS PROCESS AND PROTECT PUBLIC**

Alexandra M. Dannis and James G. Dannis, interveners in the above-captioned proceeding, hereby file the motions set forth below and supporting background information.

All notices, correspondence, communications and other information concerning this filing should be directed to: Alexandra M. Dannis and James G. Dannis, Twelve Homesteads Farm, 123 McGinty Road, Dalton, NH, 03598, telephone 603-837-9246, email [sandydannis@gmail.com](mailto:sandydannis@gmail.com).

As set forth in more detail below, we respectfully request that the Department of Energy ("DOE") (1) reject the above-captioned application of Northern Pass Transmission LLC ("Northern Pass") as incomplete for failing to include the information regarding alternatives required by the DOE's regulations; (2) require Northern Pass to supplement the application with the required information regarding alternatives; (3) after the application has been supplemented with the required information, restart the scoping process for the environmental impact statement ("EIS") to be prepared to meet the DOE's obligations under the National Environmental Policy Act of 1969 in connection with the above-captioned application; and (4) hire experienced, independent engineering, financial, environmental and legal/regulatory consultants to help ensure the robustness and integrity of the EIS process and the protection of the public.

**Background**

1. The DOE's regulations specify the information required to be included in a presidential permit application. The applicant is required to include in the application a description of "all practical alternatives" (emphasis added) to the proposed transmission line facilities (10 CFR 205.322(d) [2010]). This information is required to be submitted in the original application.
2. Northern Pass's application proposes above-ground transmission lines running approximately 180 miles through New Hampshire. The application describes a single "preferred route" and several segments of "alternative routes". The preferred route and alternative route segments are located in New Hampshire on rights-of-way ("ROWS") that we understand are owned or

proposed to be acquired (in voluntary transactions or by eminent domain) by Northern Pass, its owners or its owners' affiliates.

3. The application contains no description of other alternative routes or of any alternative designs.
4. Our filing with the DOE on December 10, 2010 for intervenor status ("Intervenor Filing") also included our "petition to reject application". We stated in our filing that "Northern Pass's application for a presidential permit is incomplete and fails to comply with applicable DOE regulations because it does not consider important alternative routes or transmission line designs." (Intervenor Filing, p.6) We stated that the DOE's regulations require on their face that Northern Pass include in the original application "a description and discussion of potential alternative geographic routes that may have less adverse impact, such as the existing transmission line route in eastern Vermont, routes along the rights-of-way of public highways, routes along the rights-of-way of railroads, or "doubling up" with routes proposed or under consideration elsewhere in the region." (Intervenor Filing, p.6) We stated that the DOE regulations require that Northern Pass include in the original application "a description and discussion of potential alternative designs for the transmission lines that may have less adverse impact, including without limitation full underground lines, partial underground lines in the areas where adverse impacts of above-ground lines would be most substantial, and alternatives to the proposed tower height/spacing (for example, a "shorter and closer" alternative) that could mitigate adverse impacts." (Intervenor Filing, pp.6-7) We pointed out the Champlain Hudson Power Express, Inc. ("CHPEI") transmission line proposal, also pending at the DOE for a presidential permit (see Champlain Hudson Power Express, Inc., Application for a Presidential Permit, OE Docket No. PP-362 ("CHPEI Application")), which proposes underwater or underground transmission lines for the full route of the lines in Vermont, New York and Connecticut. (Intervenor Filing, p.7) We noted that Northern Pass and/or its agents have asserted in public forums that alternatives such as burying the lines are "not cost effective". (Intervenor Filing, p.7) We pointed out that this assertion does not square with the highly profitable financial structure of the project and requested the DOE not to accept Northern Pass's assertions at face value. (Intervenor Filing, pp.7-8) Our petition specifically requested that the DOE reject Northern Pass's application as incomplete for these reasons.
5. Nine other intervenors made similar requests that the DOE reject Northern Pass's application as incomplete, including the Conservation Law Foundation, Appalachian Mountain Club and Meriden Hill Property Owners.
6. Northern Pass's answer (Answer of Northern Pass Transmission LLC to Motions to Dismiss and Motions to Intervene, January 6, 2011 ("Answer")) **simply ignored the central issue of the clear requirements of the DOE's regulations regarding the content of the original application.** The Answer did not assert that the application complied with the requirements or was complete. Instead, the Answer put forth a bizarre and wholly unsupported suggestion that the information required in the original application could simply be explored and perhaps supplied later. Specifically, the Answer stated that "the environmental impact statement process will provide ample opportunity to explore the reasonableness of alternatives beyond those Northern Pass identified in the Application and to consider the impacts of the Project." (Answer, p.5)

7. More than two months have elapsed since the date of the Answer. As of today, the DOE has still not responded with a decision to grant or deny the petitions to reject the application as incomplete. Neither the substance nor the formalities of the process have been respected. The application remains incomplete on its face and does not include the required information on alternatives. This is fundamentally prejudicial and unfair to the public.
8. Even though Northern Pass's application is incomplete, the DOE has failed to follow its own rules and the DOE has failed to act on the petitions, the DOE has steamed ahead and launched the public scoping meetings for the Northern Pass project, including a scoping meeting being held today in Whitefield, New Hampshire. **The scoping meetings are proceeding on a highly compromised and unfair basis that violates due process. The only choice on the table for public comment is Northern Pass's main proposal, with no meaningful alternatives developed in the application and provided for public comment as required. The scoping process is fatally flawed because the application fails to provide the required information to allow full and fair public consideration of critical alternatives to Northern Pass's main proposal.**

### Discussion and Analysis

1. This filing renews, restates and supplements our formal request for the DOE to make a decision on the completeness of Northern Pass's application. **The clock is running on the opportunity for full and fair public participation, and there is no longer time to keep heads buried in the sand and hope that issues, requests and formal filings and motions somehow disappear.** Now is the time for the DOE to step up to the plate and enforce its own rules, require Northern Pass to supplement its application with a description of the key alternatives, and then start the EIS process all over again on a fair basis.
2. The DOE's regulations requiring Northern Pass to set out practical alternatives in the application are there for a purpose. The application is intended to be sufficiently complete and detailed to provide the starting point for the comparative assessment of available choices that is the very heart of the EIS process. A complete application that discusses practical alternatives provides critical information to the public and starts the EIS process on an informed, developed basis. The public can come to scoping meetings prepared to assess and comment on a range of available options.
3. The DOE's regulations place the burden of identifying and providing the initial analysis of the alternatives on the applicant, Northern Pass, for obvious reasons of fairness. Northern Pass, in comparison to the public, has informational and resource advantages and will likely have considered many practical alternatives in the process of designing the project proposal.
4. Northern Pass's contorted reading of the DOE regulations is wholly unsupported by any text or logic. The regulations state clearly, with no ambiguity, that the original application must set forth all practical alternatives. If a regulatory draftsman wished to provide otherwise -- for example, as Northern Pass suggests, that the application must set out only the applicant's proposal and no alternatives, and that alternatives, if any, might be (or might not be) developed later on in the EIS process -- the words to accomplish this would be easy to draft. Fortunately for the public and for the integrity of the EIS process, what was drafted in the controlling regulation is the clear requirement that the application must set out all practical alternatives.

Northern Pass wants the regulation to be read out of existence because Northern Pass decided not to comply with it. And Northern Pass wants the DOE to turn a blind eye and kick the can down the road in the hope that the identification of alternatives gets lost in the shuffle of the EIS process.

5. **The public has already been clearly disadvantaged by the DOE's failure to enforce its rules. By failing to require Northern Pass to include a description of all practical alternatives in the application, the DOE has expressly and unfairly shifted to the public the burden of developing the alternatives. As a practical matter, this is an insurmountable task.** The public participants in the EIS process are not experts in the complex engineering, design, environmental, financial, legal and regulatory considerations that flow together to generate practical alternatives to Northern Pass's proposal. The public does not have access to the experience gained by Northern Pass in assessing alternatives as part of putting together its proposal. The public does not have the resources to hire expert consultants to assist with the burden that has been shifted to the public.
6. **The scoping meetings have been irretrievably compromised and tainted by the failure to have the required alternatives developed in Northern Pass's application and available for public comment.** This is a textbook breach of the basic procedural fairness and due process to which every participant in a federal government proceeding is entitled. Rather than the potential for focused comments building on the solid base of required information about a range of alternatives, the scoping meetings have been unfairly reduced to generalized comments and reactions to a single proposal. The only way to cure this and achieve the objective of fair and complete scoping meetings is to re-start the meetings after Northern Pass has supplemented its application with the required information on alternatives.
7. We respectfully request that Northern Pass be required by the DOE to provide supplemental information in its application regarding at least the following four alternatives:
  - a. The alternative route consisting of the existing HVDC transmission line route through northeastern Vermont and New Hampshire.
  - b. The alternative design of full underground lines.
  - c. The alternative design of partial underground lines in areas of heightened sensitivity.
  - d. The general alternative of switching the proposed capacity of the Northern Pass lines over to the CHPEI project or other potential projects in the region, which would mean that Northern Pass would not be built in New Hampshire and that additions to other capacity may be necessary.
8. In the interests of assisting the DOE in moving forward quickly, we will take this opportunity to suggest how the DOE might consider some potential objections from Northern Pass.
9. Northern Pass may suggest that it is somehow unfair to request the consideration of alternatives (such as 7a and 7d above) that would involve the need for Northern Pass to come to agreements with third parties on joint use of ROWs, facilities or other assets. Any such



objection is unwarranted. The DOE is charged with carrying out the public interest in approving border crossings and related routes for international transmission linkages and facilities. Where the benefits of joint use of a route or facility are high, or where there are high incremental economic, environmental and social costs that would flow from an unnecessary multiplicity of routes or facilities, the public interest may dictate joint use. This is no different from any other public planning decision. For example, at the local level town planning authorities typically require that adjacent businesses share a single access to public highways so as not to create unnecessary burdens of scattered access design. As another example, it surely would not be in the public interest if several competing sponsors of participant-funded, cost based transmission lines were to propose separately owned ROWs and facilities, one close to the next, with the associated compounded economic, environmental and social costs in the affected communities. Further, for significant portions of the route (40+ miles of preferred route in Coos County and more if alternative routes are considered) Northern Pass does not own the rights to the ROWs necessary for its project as currently proposed, and will almost certainly be forced to seek eminent domain "takings" to acquire ROWs. There is nothing pre-existing or consensual about these parts of Northern Pass's existing plan, and there may be less disturbance (in the aggregate) to existing property and business arrangements if alternatives not requiring eminent domain are pursued.

10. Northern Pass may assert that various alternatives such as burying the lines are not practical because they are "uneconomic" (according to the sponsors' own investment return expectations) in the context of this private, for-profit transaction. **(We characterize the transaction in this manner – "private, for-profit" -- to distinguish it from a "public" transmission line built in response to an identified "public need" by the regional regulator and where the costs of the lines are included in the regional customer rate base and there is open access to the line.)** We believe that any such assertion does not withstand scrutiny. As a reference point, we have made an analysis of some basic financial indicators of the Northern Pass project for Hydro-Quebec ("HQ") (the project's main financial beneficiary) and Northeast Utilities/NStar ("NU"), the equity owners of Northern Pass. The analysis uses financial data issued by HQ, NU or their affiliates where available. Key indicators are as follows:
  - a. Based on Public Service of New Hampshire's ("PSNH's") own projections of future wholesale electricity prices (see Attachment KET-2 with PSNH's base, high and low forecasts at <http://www.puc.nh.gov/Regulatory/CASEFILE/2010/10-195/TESTIMONY/10-195%202010-12-17%20OCA%20REDACTED%20TESTIMONY-ATT-TRAUM.PDF>) and HQ's use of the full capacity of the Northern Pass transmission line, HQ will generate total revenues from wholesale electricity sales over Northern Pass in the range of **\$39 billion** (PSNH low case forecasts) to **\$59 billion** (PSNH high case forecasts) during the planned 40-year life of the lines.
  - b. On the same basis, HQ may reach **\$1 billion** in annual sales over the line as early as 8 years into the project, and **\$2 billion** or more in annual sales by the end of the project.
  - c. HQ has extremely low average costs for hydro power generation, reported by HQ as 2 cents per kWh (roughly \$20 per MWh). (See 2009-2010 Hydro-Quebec Financial Review, [http://www.hydroquebec.com/publications/en/financial\\_profile/pdf/profile\\_2009-2010.pdf](http://www.hydroquebec.com/publications/en/financial_profile/pdf/profile_2009-2010.pdf), p.32) All else held equal, as wholesale prices recover and grow with the economy as projected by PSNH, we believe most of the increases in sales revenues will fall to HQ's

operating profits. PSNH's high case projects wholesale prices to reach \$100 per MWh just 10 years into the project, and the base case projection is to reach \$100 per MWh 18 years into the project. We estimate that as wholesale prices reach the middle and upper levels projected by PSNH, HQ's gross profit from the Northern Pass lines will exceed, and may substantially exceed, **\$500 million** annually.

- d. With HQ's mid-point project revenues of **\$49 billion**, annual sales revenues reaching **\$1 billion** less than half-way into the deal and gross profits expected to grow to more than **\$500 million** each year, we believe it is beyond serious argument that HQ has significant financial room in this transaction and would be capable of investing substantial additional funds in less impactful alternatives.
- e. NU's economics are also exceptionally rich. Under the Northern Pass transaction structure, HQ pays substantial amounts into Northern Pass for payment on to NU as a "return on equity". Under the Transmission Service Agreement ("TSA") approved by the Federal Energy Regulatory Commission ("FERC"), NU will be paid a **12.56%** return on equity, or approximately **\$68.5 million** in the first year of operation of Northern Pass as disclosed in the TSA filing with FERC.
- f. The New Hampshire Public Utilities Commission ("NHPUC") recently filed a request with the Federal Energy Regulatory Commission seeking to lower NU's approved 12.56% return on equity because it is excessive. (See NHPUC Request for Rehearing dated March 14, 2011, available at <http://elibrary.ferc.gov/idmws/nvcommon/NVViewer.asp?Doc=12587388:0>) We also believe NU's return is excessive. HQ's credit stands, in substance, behind all payment obligations of Northern Pass, including the return on equity to NU. Because of the in-substance HQ guarantee, we believe the return to NU should be based on the market yield of HQ debt obligations, which is in the range of 5%-6%. With appropriate adjustments for illiquidity and other factors, we believe NU's return should be capped at the range of 7.5%-9.5% to reflect the low level of risk.
- g. Similar to our conclusion regarding HQ, we believe it is beyond serious argument that NU has significant financial room in this transaction and would be capable of investing substantial additional funds in less impactful alternatives.
- h. **Modest changes to the financial structure of the Northern Pass transaction – an increase in the transmission service charge paid by HQ, and a decrease in the return on equity paid to NU – could be targeted to free up additional cash flow to be retained by Northern Pass. The additional cash flow would support substantial additional capital investments in less impactful alternatives while maintaining attractive investment returns for HQ and NU.**
- i. The incremental cost of less impactful alternatives such as burying the lines requires a full analysis. However, we believe some rough comparative indicators demonstrate that these alternatives are reasonable and must be considered in the application. For example, the CHPEI project is a **\$3.8 billion, 2000MW, 385 mile** project with **100% underwater or underground** lines. (CHPEI Application, pp.4-6) This represents an all-in average project cost of roughly **\$10 million per mile**, or \$1.9 million/MW. Northern Pass is a **\$1.1 billion, 1200MW, 180 mile** project with **100% overhead** lines. This represents a comparable average project cost of roughly **\$6 million per mile**, or \$0.9 million/MW. The cost difference

between CHPEI (buried) and Northern Pass (above ground) is **\$4 million per mile**. If this cost difference (potentially suggestive of the additional cost to bury the lines) is applied to the 180 miles of the Northern Pass lines, the cost increase would be in the range of **\$720 million**. This is a rough estimate only and does not take into account potential differences in design or conditions on the ground or other factors, but it does suggest an order of magnitude of incremental costs for this less impactful alternative.

11. We would also note that there are other potential structures for the Northern Pass transaction that may potentially accommodate additional investments in less impactful alternatives without the constraint of HQ's and NU's potential concerns about the economics of the current private, for-profit proposal. In the project as currently proposed, Northern Pass's sponsors have pursued a "participant-funded, cost-based" structure for the transmission lines, which means in this case that HQ is ultimately standing behind all project costs (including returns on and repayment of NU's putative "equity"). In return, HQ has been given a monopoly right to the capacity of the transmission lines. The project costs are paid by HQ and not included in the customer rate base.
12. This unusual "private" transaction structure provides two key advantages to HQ. First, because the project is optional (that is, proposed by Northern Pass's sponsors on their own motion and for their own profit) as opposed to responding to an identified regional public need, and project costs are not included in the customer rate base, Northern Pass was able to avoid the 2-3 year planning and approval process at ISO-New England (ISO-NE) for additions to the transmission grid that are based on public need and included in regional rates. Northern Pass also avoided the regulatory risks of non-approval. Thus, the timeline for the project can be substantially accelerated and involves less regulatory risk. Second, because this is an optional project not in the customer rate base, it is not subject to the usual "open access" requirements of ISO-NE that would require HQ to share the capacity of the line with other potential users. Thus, HQ receives a monopoly on capacity to the extent HQ can use the capacity. In essence, the unusual structure lets HQ get the transmission lines up faster and with less regulatory risk, and gives HQ a monopoly on capacity. **HQ and NU chose this "private" approach in their own discretion, based on maximizing their own investment returns and profits.**
13. If the DOE were to determine that it might be in the public interest to approve the additional transmission capacity represented by the Northern Pass proposal but there is still potential uncertainty about funding for less impactful alternatives (such as burying the lines) under the existing "private" transaction structure, the DOE could go forward and require the less impactful alternative. In that case, the result would be that HQ and NU would have the option to maintain the "private" transaction structure and put in more funding, or move to a more traditional "public" transaction structure. Under a "public" structure HQ and NU would seek regular planning and "public need" approval from ISO-NE (that is, a determination by the regional regulator that there is actually a public need for the transmission lines rather than merely a profit opportunity for the project sponsors) and inclusion of all or part of the cost of the project in the customer rate base. The project cost could be proposed for rate base purposes as including the appropriate investments in less impactful alternatives.

14. Under this “public” approach, the additional costs of mitigating the adverse impacts in New Hampshire would be spread across the regional rate base (of which New Hampshire customers pay only a proportional share of approximately 9% based on the state’s electricity usage). There would be no need to leave some quantum of unmitigated costs (that is, the economic, social and environmental costs of less than full mitigation) disproportionately burdening New Hampshire as the host of the transmission lines. In simple terms, the costs of mitigating the disproportionate burden on New Hampshire by burying the lines or taking other actions would be spread across the regional rate base.
15. This more traditional “public” structure for the Northern Pass lines may encourage more complete mitigation of any burden on New Hampshire through the use of alternatives such as full burial of the lines. It may also appeal to a basic sense of fairness in that the customers principally benefiting from the transmission lines (customers in southern New England) would bear the lion’s share of the costs of ensuring that the project does not unreasonably burden New Hampshire, the host of the lines.
16. As the foregoing discussion indicates, the identification and analysis of reasonable and practical alternatives to Northern Pass’s current proposal is a complex task. To ensure a robust and responsible EIS process, the DOE staff running the process must be fluent with the full range of concepts and issues that arise in considering alternative transmission line routes and designs and the costs and benefits of the different alternatives. The DOE must be able to form an independent, nuanced view that is not merely a repetition of the applicant’s positions or the positions outlined by public participants. We respectfully suggest that the DOE, as part of the EIS process, should be advised by experienced, independent consultants in the areas of **engineering, finance, environmental matters, and legal and regulatory matters**. This will help ensure a robust and fair EIS process and the protection of the public.

### **Motions**

Based on the foregoing considerations, we respectfully make the following motions:

1. We move that the DOE reject the above-captioned application of Northern Pass as incomplete for failing to include the information regarding alternatives required by the DOE’s regulations.
2. We move that the DOE require Northern Pass to supplement the application with the required information regarding alternatives.
3. We move that the DOE, after the application has been supplemented with the required information, restart the scoping process for the EIS.
4. We move that the DOE hire experienced, independent engineering, financial, environmental and legal/regulatory consultants to help ensure the robustness and integrity of the EIS process and the protection of the public.

We respectfully request that the DOE enter a written decision on the foregoing motions and that if any of the motions is denied, the DOE provide a written statement on the record of its rationale for denial.

Pursuant to the DOE's January 27, 2011 letter to interveners, we understand this filing will be posted on the website the DOE has established for the above-captioned presidential permit proceeding and that service of the filing is not necessary. As noted in the attached certificate of service, we are delivering this filing to the persons to whom we delivered our petition to intervene.

Thank you in advance for your consideration of this filing.

Dated this 17<sup>th</sup> day of March 2011.

Respectfully submitted,

Alexandra M. Dannis

James G. Dannis

**UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY**

**Northern Pass Transmission LLC  
Application for Presidential Permit**

**:**

**OE Docket No. PP-371**

**CERTIFICATE OF SERVICE**

We hereby certify that on this day we have served, by overnight mail and by email, a copy of this filing in the above-captioned matter to the following persons:

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Dated this 17<sup>th</sup> day of March 2011.

Alexandra M. Dannis

James G. Dannis