



For a thriving New England

CLF New Hampshire 27 North Main Street
Concord, NH 03301
P: 603.225.3060
F: 603.225.3059
www.clf.org

Via Hand-Delivery and Email

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

August 8, 2016

RE: Docket No. 2015-04
Application of Public Service Company of New Hampshire d/b/a Eversource Energy
for a Certificate of Site and Facility for Construction of New Transmission Line (Madbury
to Portsmouth)

Dear Ms. Monroe,

Please find enclosed for filing in the above-referenced matter an original and eight (8) copies of an Objection to Applicant's Request to Limit the Participation of Conservation Law Foundation, as well as my Appearance.

Copies of this letter and the attached have this day been forwarded via email to all parties on the Distribution List.

Thank you for your attention. Please do not hesitate to contact me with any questions.

Sincerely,

Melissa E. Birchard

cc: Distribution List (via email)

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

Docket No. 2015-04

Application of Public Service Company of New Hampshire
d/b/a Eversource Energy for a Certificate of Site and Facility for
Construction of New Transmission Line (Madbury to Portsmouth)

**OBJECTION TO APPLICANT’S REQUEST TO LIMIT THE PARTICIPATION
OF CONSERVATION LAW FOUNDATION**

In its response to Conservation Law Foundation’s (“CLF’s”) Petition to Intervene as a full party in the above-captioned proceeding, Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) states that it does not object to the intervention of CLF on the condition that the Site Evaluation Committee (“SEC” or “Committee”) (a) require CLF to combine its “presentations of evidence and argument, cross-examination and other participation” with Fat Dog Shellfish Company, LLC, a local enterprise, and The Nature Conservancy (“TNC”), a national non-profit organization with property and legal interests in the area, and (b) limit CLF’s participation to certain issue areas, as defined by the Applicants. The SEC should deny both requests.

ARGUMENT

I. There Is No Basis for Limitation of CLF’s Participation

1. Eversource’s request for consolidation is a frivolous and unnecessary effort to hinder and constrain CLF’s involvement in this proceeding.

2. Emboldened by the success of its requests for consolidation of intervenors in the Northern Pass proceeding before this Committee, SEC Docket No. 2015-06, Eversource seeks to achieve the same litigation success here. But the Northern Pass docket is, in the Committee’s

words, “without precedent.” In its Order on Motions to Intervene in that docket, the Committee concluded as follows:¹

This matter is without precedent in New Hampshire. More than 160 motions to intervene were filed, many of which were on behalf of multiple entities. Most of those seeking intervenor status have been able to identify direct and substantial interests in this matter and have a right to intervene. It is simply not possible, however, to administer a proceeding of this nature with that number of individual, separate parties.

In contrast to the 160-plus motions to intervene in the Northern Pass docket, in this docket there have been just nine motions to intervene. Eversource nonetheless seeks to consolidate six of those intervenors into two groupings, for a total of only five intervenor groupings. Eversource claims that, unless the SEC agrees to impose this consolidation, there will be harm to the prompt and orderly conduct of the proceedings.² Yet there is no basis to claim that a handful of intervenors poses an obstacle to prompt and orderly conduct.³ This is particularly the case with regard to CLF, which is well-versed in appropriate regulatory and judicial conduct and has a record of collaborating with other parties on a voluntary basis when and if such voluntary collaboration is called for.

3. The Committee should reject Eversource’s request that the interventions of CLF, TNC, and Fat Dog Shellfish Company be granted only on the condition that they form a single grouping. CLF is a regional membership-based organization with interests and expertise in both energy and environmental concerns in New Hampshire and across New England.⁴ While CLF’s

¹ Order on Motions to Intervene at 47, Docket No. 2015-06. Eversource cites two other dockets where individuals, not organizations or companies, were grouped.

² See Eversource Response to CLF et al. Motions to Intervene at 5.

³ In the Northern Pass proceeding, the Applicants’ request for consolidation and limitation of various parties’ participation was expressly justified on the basis of the exceptional number of petitions to intervene, as well as the unusual scale of the project. Applicants Response and Objection to Certain Petitions to Intervene at PP 8, 14, 63, Docket No. 2015-06 (Feb. 26, 2016).

⁴ The participation of membership-based organizations such as CLF generally produces efficiencies and reduces redundancies.

primary focus is legal advocacy, in New Hampshire CLF maintains a fully-staffed Waterkeeper Program that monitors and advocates for the health of the Great Bay, which will be affected by the proposed project. CLF's combined interests and expertise in New Hampshire's energy infrastructure and the Great Bay is unique. CLF is therefore well-positioned to contribute to the complete development and airing of issues and facts in this proceeding.

4. Although CLF may share with TNC and Fat Dog Shellfish Company certain interests in the health of the Great Bay, TNC and Fat Dog Shellfish Company have substantial economic, legal, and property interests that CLF in no part shares. CLF should not be required to combine its participation with these entities. Such combination would interfere with all three entities' abilities to represent their particular rights and interests without offering any substantial benefit to the proceeding.

5. Eversource also lacks any reasonable basis for its claim that granting CLF intervention without limiting CLF's participation to certain issues would harm the proceeding. In each instance that the Committee is forced to prematurely identify and circumscribe the issues and interests relevant to a proceeding or party before that proceeding has gotten underway, the Committee takes a risk. Not only does it risk hindering the full development and airing of issues and facts, it also takes a risk that it will infringe the rights of the parties to adequately represent their interests and protect their rights. Here, there can be no material benefit to such risks. There are only nine requests for intervention. CLF has extensive experience before this state's regulatory agencies and courts, and reasonably can be relied on to present relevant facts and

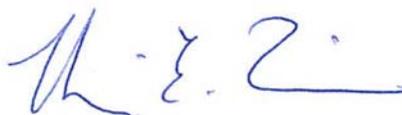
positions, consistent with the interests and expertise of its staff and members. Eversource has no basis to suggest otherwise.⁵

6. It is not reasonable to attempt to definitively circumscribe CLF's interests at this stage of the proceeding. While CLF has a special concern regarding the Little Bay crossing, CLF's interests may extend beyond that issue to other environmental impacts and the necessity of those impacts. To narrow CLF's participation to specific issues at this stage would be arbitrary and unnecessary.

7. The SEC should reject Eversource's attempt to constrain CLF's participation, which evidences aggressive litigation advocacy lacking a meritorious objective.

WHEREFORE, Conservation Law Foundation respectfully requests that the Site Evaluation Committee grant its July 22, 2016 request for intervention as a full party in Docket No. 2015-04, without regard to the consolidation and limitation sought by Eversource.

Respectfully submitted,



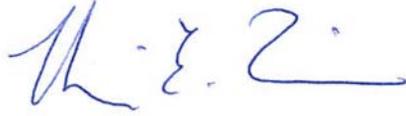
Melissa E. Birchard
Conservation Law Foundation, Attorney
27 N. Main St.
Concord, NH 03301
(603) 225-3060
Fax (603) 225-3059
mbirchard@clf.org

Dated: August 8, 2016

⁵ At paragraph nine of its filing, Eversource again – this time obliquely but in no uncertain terms – references the Northern Pass proceeding currently ongoing before this Committee. The Committee has already acknowledged that the Northern Pass proceeding is an exceptional one. What the Applicant now asks the Committee to do is to take a slide down a slippery slope that would erode the rigor of the SEC's proceedings and potentially strip them of public respect. An expedient means that may be justified for a proceeding such as Northern Pass is wholly inappropriate as a general practice and will lead to inefficiency in terms of wasted legal advocacy and avoidable appeals.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Objection has, on this 8th day of August, 2016, been sent by email to the service list in Docket No. 2015-04.



Melissa E. Birchard

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

Docket No. 2015-04

Application of Public Service Company of New Hampshire d/b/a Eversource
Energy for a Certificate of Site and Facility for Construction of New
Transmission Line (Madbury to Portsmouth)

APPEARANCE

Please enter my Appearance for Conservation Law Foundation in the above-captioned docket, *Docket No. 2015-04, Application of Public Service Company of New Hampshire d/b/a Eversource Energy for a Certificate of Site and Facility for Construction of New Transmission Line (Madbury to Portsmouth)*. I am an attorney in good standing and duly licensed to practice law in Washington, D.C. (D.C. Bar No. 991264; U.S. Court of Appeals, D.C. Circuit, Bar No. 54766). Although my application for admission to the New Hampshire Bar has been approved, I have not yet been sworn in. I agree to adhere to the Committee's rules of practice and procedure and to adhere to any orders of the Committee or agreements between the parties in the docket, including orders or agreements addressing confidentiality. Together with Thomas Irwin, I represent the interests of Conservation Law Foundation in this docket.

Respectfully submitted,



Melissa E. Birchard
Conservation Law Foundation, Attorney
27 N. Main Street
Concord, NH 03301
(603) 225-3060
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Dated: August 8, 2016

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Melissa E. Birchard