

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

Docket No. SEC 2015-06

Application of Northern Pass Transmission LLC and Public Service Company of New
Hampshire dba Eversource Energy for a Certificate of Site and Facility

**REPLY OF RODERICK C. MOORE, JR., JOSEPH JOHN DUNLAP,
SHAWN PATRICK BRADY AND CHRISTOPHER THOMPSON TO
APPLICANTS' RESPONSE AND OBJECTION TO CERTAIN PETITIONS TO
INTERVENE**

Roderick C. Moore, Jr., of Salem, New Hampshire, Joseph John Dunlap of Windham, New Hampshire, Shawn Patrick Brady of Dunbarton, New Hampshire and Christopher Thompson of Windham, New Hampshire (hereafter referred to as the "Heath Road Intervenors."), by their undersigned representative, hereby reply to Applicants' Response and Objection to Certain Petitions to Intervene (Applicants' Intervention Objection") insofar as it seeks to have the Site Evaluation Committee ("SEC") deny the Heath Road Intervenors permission to intervene or otherwise limit their intervention.

1. The Heath Road Intervenors jointly own 243 acres of land off Heath Road in Stewartstown, New Hampshire (the "Property"). Their Property is in the Great North Woods tourist region of New Hampshire and abuts Coleman State Park. The Heath Road Intervenors property includes a deeded right of way running from the Heath Road to their Property. The Applicants' Project Maps shows that the subject above ground transmission line is planned to cross directly over the Heath Road Intervenors deeded right of way. As such the Heath Road Intervenors are not only abutters to the transmission project. Their property rights include a real estate interest directly under the Applicants' proposed transmission project.

2. The Heath Road Intervenors contend that the Applicants have no right to interfere with or cross the Heath Road Intervenors deeded right of way without their

permission. They also contend that the Petitioners cannot ask the SEC to take jurisdiction of their private property dispute or to adjudicate its resolution. The SEC has no jurisdiction to resolve a private property dispute; and it has no power to take the Heath Road Intervenors' property by eminent domain. The Heath Road Intervenors intend to protect and preserve those interests, and intervention provides them with an important means of insuring that their private property rights are adjudicated by a state court and not the SEC. Intervention also provides the Heath Road Intervenors with the ability to protect their rights by opposing the project on all other grounds over which the SEC may have jurisdiction.

3. As explained in greater detail in their Petition to Intervene, the Heath Road Intervenors' fee owned property would also be severely compromised and damaged in value and utility by its close proximity (as close as 1000 feet) to the project corridor and the transmission towers that the Applicants intend to clear and erect easterly from Holden Hill Road and along the southern boundary of Coleman State Park.

4. Thus, the Heath Road Intervenors own and hold substantial direct interests that may be affected by this proceeding and they must be allowed to Intervene pursuant to RSA 541-A:32 and N.H. Code Admin. R., Site 202.11.

5. The Applicants' Intervention Objection attempts, without justification, to restrict mandatory intervention of New Hampshire property owners to those whose property abuts the proposed project or lies within 100 feet of the project. Thus non-abutting properties within the fall zone of the Applicants' towers (many of which are over 100 feet high) would potentially be excluded from participation by the Applicants' arbitrary proposal. Such a result would not only be ridiculous, it would offend every notion of due process.

6. Large transmission projects such as the one proposed by Applicants will inevitably have many impacts, both visual and environmental, that go miles beyond the

“100 feet from the project area” intervention “qualification” proposed by Applicants. This is specifically recognized by N.H. Code Admin. R. Site 301.05(b)(4)d.2 requiring visibility analysis of up to 10 miles from a proposed transmission project in rural areas. Thus all who claim to have property interests that are affected within the viewshed of the Applicants’ project should be permitted to protect those interests through intervention. They all will have suffered direct property interest impacts and such impacts will be unique to each property. No arbitrary rule of proximity should be adopted by the SEC as a measure for determining the availability of mandatory intervention.

7. Finally, the Applicants suggest that the SEC should limit the ability of non-abutters to be heard on issues before the SEC. The Heath Road intervenors are in fact abutters since their deeded property interests are literally crossed by the proposed project. Nevertheless, the Applicants want the Heath Road Intervenors to be treated as non-abutters and urge the SEC to limit their participation and/or to lump them in with other intervenors. Any such limitation on their participation is not warranted. The interests of the Heath Road Intervenors can only be protected by allowing them to fully participate in all aspects of this proceeding.

8. The Applicants point to their own due process rights as being in need of protection and, at the same time, ask the SEC curtail, limit or restrict the due process rights of intervenors in order to protect the Applicants from undue delay and inconvenience. That is obviously not the way that fair hearings are run under our laws and constitutional notions of due process. All parties to proceedings are entitled to be treated fairly and the SEC should not be asked to limit participation of the affected public in order to expedite resolution of a complex and difficult project proposal formulated and prosecuted by the Applicants. The Applicants have had over five years to decide what type of project they would ask the people of New Hampshire to permit through this SEC process. They have had over five years to decide what specifications and attributes they

would include in their proposed project. They have heard over five years of persistent opposition from members of the public impacted by the project. The Applicants should not now be heard to ask the SEC to limit participation of intervenors simply because the Applicants want to expedite consideration of their proposal by silencing or curtailing interested parties who will suffer real damage if the project proposal is permitted to proceed. The Applicants have arrived with a project that has many problems and much opposition. The impacted property owners opposed to this project are entitled to just as much due process as the Applicants. If it takes time and effort to protect the rights of those impacted and to accord to them a fair hearing, then that time and effort is never wasted. It is, in fact, what is required.

WHEREFORE, the Heath Road Intervenors respectfully request that the SEC overrule the Objection of the Applicants and issue an order granting their petition for intervention with the right to fully participate in all aspects of this proceeding.

Respectfully submitted,

RODERICK C. MOORE, JR.
JOSEPH JOHN DUNLAP
SHAWN PATRICK BRADY AND
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/s/ Alan Robert Baker

By _____
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of March, 2016, a copy of the foregoing has been sent via electronic mail or first class mail to the parties named in the Distribution List for this Docket.

/s/Alan Robert Baker

Alan Robert Baker