

Webster Family Response to Applicants' Response and Objection to Certain Petitions to Intervene

We, the Webster Family, respectfully submit this response to the 2/26/2016 Applicants' Response and Objection to Certain Petitions to Intervene.

On February 5, 2016, we filed our Petition to Intervene in the SEC's proceedings under Docket No. 2015-06 relating to the proposed Northern Pass transmission line. On February 26, 2016 Northern Pass filed its Response and Objection to Certain Petitions to Intervene. Included in this Response was the suggestion that the petition of the Webster Family to intervene be denied.

We object both to the criteria that Applicant has proposed for determining eligibility to intervene, and to Applicant's assertion that we do not meet the criteria that it suggests be used.

The SEC may have asked that the applicant in its application (and on maps in that application) identify nonabutting properties within a 100 foot boundary of their project. However, that is an entirely different thing from setting a standard that property owners beyond 100 feet of the easement edge should not have the right to intervene. We contend that a standard of that kind would not be appropriate for this project. Property owners such as we are, beyond 100 feet of the easement edge, but abutters to the land bisected by the easement, and still in close proximity, have a near view of the towers, and would be substantially impacted in a manner very different from the general population.

We note that 100-feet beyond the easement edge is an oddly short distance compared to the proposed towers in our neighborhood at 125-foot tall.

Our properties include tax lots that are immediately across the Pemigewasset River from the fee lots over which the proposed Northern Pass project would be constructed. To be more precise, our properties include Lots 6 and 7 on Tax Map 205 in Bridgewater. These lots are immediately across the Pemigewasset River from the land identified as owner 6101 (New Hampton Tax Map 20, Lot 69), over which runs the PSCNH transmission right of way that is proposed as the route for the Northern Pass project under consideration.

For most ordinary land use proceedings in New Hampshire, these lots would be considered abutting to the property over which Northern Pass would proceed, as they are clearly included with section 672:3 of title 64 of the New Hampshire statutes. Indeed, it is not certain to us that we should not be treated as abutters with respect to these SEC proceedings, since we do abut the estate that is servient to the right-of-way. Thus, if the Applicant had needed a building permit to build a 10 foot high shed just to the east of the existing PSCNH right-of-way, our property would have been treated as abutting properties. Surely we have a greater interest in the effect of its proposal to build seven towers, several more than nine times as high. This fact, in and of itself, suggests that our interests can be distinguished from those of other local residents and certainly those of the general public in New Hampshire.

Our interests include the threat posed by the Project to our use and enjoyment of our river-front property, and to its property values. Our river-front property is just north of the place in the 131st mile of the proposed route where the right-of-way comes closest to the Pemigewasset River before making a sharp turn to the east at proposed tower DC-1120 (Proposed Route map 126). It appears that this proposed tower would be several dozens of feet higher than the highest trees at this site, and the newly cleared land would be within 50 ft. of the river bank at typical water levels. For almost a mile north and south of our property, the River is subject to only low impact but treasured local, popular recreational use. From most vantage points, there are no artificial structures visible in either direction.

Should the Northern Power transmission towers be built to allow the project to approach the Pemigewasset at this location, the towers would be far above the treeline and dramatically affect our views.

Our property is highlighted on several of the maps the Applicant has submitted outlining the proposed route of the Project. The river frontage is included in the maps accompanying the February 2016 filing, sheet 126 of 189. Our property includes the cross-hatched marked wetlands on this map. We believe that had the Applicant consistently applied the same standard for marking residences with yellow circles on this map, it would have similarly marked our buildings, which are on land just west of the River Road that is somewhat arbitrarily located on different tax

lots from the river frontage but which has been included in the same deeds for more than 200 years. Our property is well within the boundary of the area considered by the Applicant in its filings for the section 106 Consultation proceeding, Project Area Form Lakes Region, Part 2. (In the original filings, our historic tavern and outbuildings were numbered 688; although the buildings are still marked, the designation was removed in the February 26 revised submission.) It is also within the most southerly of the red rectangles on Map 138 submitted by the application on October 19, 2015.

Aside from our property's close proximity to the towers, we hold that we have standing and a right to intervene based upon our regular use of the resource which is the Pemigewasset River. As we stated in our petition to intervene, we are regular users of that resource. We live beside the river, our property has riverfront. We walk, cross-country ski, and snowmobile beside the river. We swim and fish in the river, and canoe and kayak on it. As precedent for our standing as users of that resource, we would cite *Friends of Earth, Inc. v. Laidlaw Envtl. Services, Inc.*, 528 U.S. 167 (2000) <https://supreme.justia.com/cases/federal/us/528/167/> and *Sierra Club v. Morton*, 405 U.S. 727 (1972) <https://supreme.justia.com/cases/federal/us/405/727/case.html>. Those whose livelihoods depend upon tourism and recreation in north and central New Hampshire are likely to be very significantly affected by any blight Applicant's project creates. Those who in the course of their everyday lives will actually see and travel within close proximity to Applicant's project have interests far more specific than the general population in New Hampshire and should therefore be allowed to intervene. Even if such people are not viewed as having sufficient interests to be granted intervenor status, we, the Webster family, believe that our interests are sufficient to be granted intervenor status, despite the Applicant's assertions.

Furthermore, we believe that this SEC proceeding will benefit from our participation. For instance, otherwise there may be no one to point out errors in the assumptions that have been made by the Applicant in its filings with respect to the region in which our property is located. For instance, in the February 26 Visual Impact Assessment Attachment 9, in which Applicant provided photosimulations for leaf-off conditions, the Applicant erroneously assumed that only water-related uses would be involved in the vicinity of the Pemigewasset River Scenic Easement, and that such uses would not occur during the leaf-off time period and therefore provided no simulations for this area. This area is in fact enjoyed by snowmobilers and cross-country skiers during the time from late fall to early spring.

In addition, we believe the cross-sections and photosimulations, in this mid-region along the river, are misleading. They suggest that minimal additional clearing will be necessary. The cross-sections, however, only indicate proposed clearing edge and how close it is to the right of way margin. Along some of the banks, yes, this right of way exists, but up to a 60 ft. width is not currently cleared (as indicated on map 129, structures DC 1144 and DC1145). This proposed clearing will have significant impact on erosion and thus water quality as well as on viewsheds. The leaf-on photosimulation of this crossing suggests tall pines which might obscure view of the towers will remain. The map and current actual photographs suggest otherwise.

Indeed, from north of from Proposed Route map 124 through map 129, swimmers, canoeists, kayakers, those who participate in float trips, and fishermen all enjoy the beauty of the river, and we believe our input is valid for SEC consideration.

Because we believe that we would be significantly impacted by the Applicant's project, and we believe our intervention could improve the SEC's deliberations, we respectfully request that our petition to intervene be granted. If the SEC agrees with the Applicant's suggestion that Intervenors be grouped, we respectfully request that this occurs with groupings composed only of those with truly similar interests; for instance, those who are concerned about the effect of the project on recreation and historic values in the mid-region of the project.

Should this Response to the Applicants' Response and Objection be considered untimely, we respectfully request permission to file notwithstanding any missed deadline.