

**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**

**April 28, 2017**

**REPORT OF PREHEARING CONFERENCE**

**Background**

On April 28, 2017, a prehearing conference was held in the above referenced docket. Counsel to the Site Evaluation Committee, Michael J. Iacopino, was the presiding officer. This memorandum will serve as a report of prehearing conference pursuant to RSA 541-A:31, V (d). Notice pursuant to RSA 541-A:31, V(b) of the prehearing conference was included in the procedural schedule issued on March 1, 2017 and was also noticed in the Report and Order on Prehearing Conference issued on April 11, 2017. The entire prehearing conference was recorded verbatim. This memorandum is meant only as a summary of those matters which should be reported to the Subcommittee. In order to get a more detailed understanding of the prehearing conference, the reader should review the transcript upon its filing.

**Participants**

At the beginning of the prehearing conference, appearances were taken. A list of the attendees at the prehearing conference is attached to this Report of Prehearing Conference. Also present was Attorney Iryna Dore of the Brennan Lenehan law firm who assisted Mr. Iacopino as counsel to the Subcommittee.

**Explanation of Prehearing Conference Process.**

After taking appearances, the Presiding Officer provided an explanation of the prehearing

conference process. The presiding officer advised the attendees that the prehearing conference was not an opportunity to advocate for their positions and that motions could not be ruled on at the prehearing conference. The prehearing conference is an opportunity for an informal discussion of procedural matters. In particular this prehearing conference was scheduled to discuss scheduling of the balance of the Applicant’s case. The parties were advised that a third prehearing conference would be scheduled to address the balance of the proceedings.

**Applicant’s Remaining Witnesses and Expected Extent of Cross Examination**

The Applicant filed a proposed order of witnesses on April 27, 2017. Using the Applicant’s list, all parties present provided good faith estimates of the amount of time that each anticipated for cross-examination. The chart below sets forth the order of the applicant’s witnesses and the total time anticipated for cross-examination by all parties. These estimates do not include questions from the Subcommittee:

Order of Witness/Panel	Witness/Panel Subject Matter	Witnesses	Estimated Time for Cross Exam
1	Construction	Kenneth Bowes Samuel Johnson Derrick Bradstreet Nathan Scott John Kayser Lynn Farrington	4 Days
2	Environmental	Robert Varney Jacob Tinus Lee Carbonneau Sarah Barnum Dennis Magee	3 Days

3	Economic and Market Benefits	Julia Frayer	3 Days
4	Aesthetics	Terry DeWan Jessica Kimball	2.5 Days
5	Historical and Archaeological	Cherilyn Widell Vicky Bunker	2.5 Days
6	Property Values	Jim Chalmers	2.5 Days
7	Tourism	Mitch Nichols	1 – 1.5 Days
8	Property Taxes	Lisa Shapiro	.5 days
9	Land Use and Orderly Development	Robert Varney	1.5 Days
Total Anticipated Time for Cross Examination Not Including Subcommittee Questions			21 Days

### **Scheduling Issues**

The Applicant indicated that it would try to adhere to the schedule set forth above, but due to unforeseen circumstances, there may need to be changes in the schedule. Counsel for the Applicant pointed out that Dr. Shapiro lives locally and could serve as a “pinch-hitter” in the event that a panel concluded early or some unforeseen circumstance caused a delay in the schedule.

Counsel for the Public and counsel for the Forest Society each indicated that they would

like between 5 and 7 days' notice in the event of a change in schedule. The Applicant agreed that it would give as much notice as possible if there was a change in the schedule for the purpose of convenience. However, the Applicant also pointed out that some flexibility is necessary for unforeseen circumstances.

Some participants advised the Presiding Officer that they cannot attend the hearings every day, and therefore must be selective. They asked if either the Administrator or counsel could publish an email around 3:00 PM each day to the entire distribution list advising of the progress made that day and the anticipated witnesses for the next day. Counsel for the Subcommittee committed to this process.

#### **Distribution List Discussion**

Some parties asked that all parties from this point forward be required to use the full distribution list whenever filing exhibits, pleadings, or other relevant documents, including emails. Counsel for the Public objected to this request. The matter was not resolved and the parties shall continue to use the service list and distribution list as presently required.

#### **“Share File” Concerns**

Counsel for the Forest Society and some of the municipalities raised concerns that the Applicant was tracking the use of the search function on the Citrix share file system. It was explained that the share file system has a search function. The administrator of the system can identify who has used the system and what files they have reviewed or search for. Counsel for the Forest Society indicated that this is a breach of attorney-client privilege and asked that the Applicant adjust the settings on the site so that it could so that this could not occur. The Forest Society's concerns were echo by the municipalities.

Counsel for the Applicant advised that they did not administer the share file site in a manner in which they could track the usage of the site by other parties. Mr. Needleman explained that on two occasions they used the administrative function of the site to answer specific requests from individual parties. Mr. Needleman indicated that neither he nor his client had any interest in tracking the usage of the site by others. He also pointed out that the share file site is made available for the convenience of the parties for the purposes of exchanging information. It was never intended to be a database for the use of the Parties.

The presiding officer noted that the share file site was not created, owned or operated by the Site Evaluation Committee site and was not used by the Committee members. The presiding officer reminded the parties that the share file site was provided for the benefit of the parties to exchange information. All parties should be cautious in the manner in which they use the share file site.

The presiding officer asked Mr. Needleman to investigate whether or not the administrative settings could be changed so that the administrator could not investigate search efforts. Mr. Needleman agreed to do so and indicated that if it could be done, the Applicant was willing to do that.

### **Additional Public Comment**

The most recent scheduling order sets aside three dates for additional public comment. The order also provides a process for pre-registration to speak during the public comment sessions. This was done in an effort to make the process more convenient for the public. The presiding officer explained that intervenors and members of intervenor groups should not use the public comment period to speak as it will limit the ability of the Subcommittee to hear from people who have not had an opportunity to make public comment. It was also noted that those

who have previously provided written or oral public comment may be reserved to the end of the sessions to speak.

### **Additional Site Visits**

Discussion turned to the scheduling of additional site visits. The presiding officer advised the parties that the scheduling of the additional visits was underway.

There being no further business the prehearing conference adjourned.

A handwritten signature in black ink, appearing to read "Michael J. Iacopino". The signature is fluid and cursive, with a long horizontal stroke at the end.

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Michael J. Iacopino  
Counsel to the Site Evaluation Committee  
Presiding Officer – Prehearing Conference