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April 7, 2016

VIA ELECTRONIC MAIL

Pamela Monroe, Administrator
NH Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301
pamela.monroe@sec.nh.gov

**RE: NH 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 for Construction of a New High
Voltage Transmission Line in New Hampshire**

Dear Ms. Monroe:

Enclosed please find the Coos County Business and Employers Group's
Objection to Counsel for the Public's and the Forest Society's Proposed Procedural
Schedules for filing in the above-captioned matter.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,



James J. Bianco, Jr.

Enclosures

cc: Distribution List for Docket No. 2015-06

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

**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**

SEC Docket No. 2015-06

COOS COUNTY BUSINESS AND EMPLOYERS GROUP'S OBJECTION TO COUNSEL
FOR THE PUBLIC'S AND THE FOREST SOCIETY'S PROPOSED PROCEDURAL
SCHEDULES

The Coos County Business and Employers Group (the "Group") objects to Counsel for the Public's and Society for the Protection of New Hampshire Forests' (the "Forest Society") proposed procedural schedules, which are both contrary to RSA 162-H:7. In support of its objection, the Group says:

1. The Group objects to both Counsel for the Public's and the Forest Society's proposed procedural schedules because they are contrary to RSA 162-H:7. Additionally, Counsel for the Public and the Forest Society have failed to meet their burden of proving that it would be in the public interest for the SEC to suspend the time frame established under RSA 162-H:7. See RSA 162-H:14. As a result, Counsel for the Public's and the Forest Society's proposed schedules should be rejected, and the Applicant's proposed procedural schedule, which adheres to the statutory scheme, should be adopted.

2. Under Site 202.19(a), "[t]he party asserting a proposition shall bear the burden of proving the proposition by a preponderance of the evidence." Both Counsel for the Public and the Forest Society bear the burden of proving that they are entitled to the relief they seek. They have both failed to carry their burden with respect to their proposed schedules.

3. As a threshold matter, Counsel for the Public's and the Forest Society's proposed procedural schedules are contrary to the statutory scheme and, therefore, should be rejected. RSA

162-H:7, VI-d provides that “[w]ithin 365 days of the acceptance of an application, the committee shall issue or deny a certificate for an energy facility.”

4. In this matter, the Applicant’s application was accepted on December 18, 2015. Pursuant to the statute, the SEC must issue its decision on the application within 365 days of acceptance. Despite the clear statutory mandate, Counsel for the Public’s proposed schedule proposes that the SEC render a final decision on the application roughly 18 months after the application was accepted. The Forest Society’s proposed schedule is more onerous and has a two year time frame for evaluating this application. Both of these proposed schedules are inconsistent with the plain language of RSA 162-H:7, VI-d. As a result, they should be rejected.

5. To support their proposed schedules, Counsel for the Public and the Forest Society argue that it would be in the public interest to suspend the time frame in RSA 162-H:7, relying on RSA 162-H:14 to support their argument. The Appalachian Mountain Club (“AMC”), amongst others, joined in supporting the Forest Society’s proposed procedural schedule. Their arguments miss their mark and misapprehend the statutory scheme.

6. RSA 162-H:14 reads: “If the site evaluation committee, at any time while an application is before it, deems it to be in the public interest, it may temporarily suspend deliberations and time frame established under RSA 162-H:7.” While the statute vests a certain degree of discretion with the SEC, the proponent of temporary suspension—in this case, Counsel for the Public and the Forest Society—must still meet its burden of proving by a preponderance of the evidence that suspension of the deliberations and time frame under RSA 162-H:7 is in the public interest. See Site 202.19(a). Both Counsel for the Public and the Forest Society have failed to meet that burden.

7. Counsel for the Public and the Forest Society misapprehend the plain language of this section of the statute. As the statute makes clear, the SEC “may temporarily suspend deliberations and time frame established under RSA 162-H:7.” RSA 162-H:14 (emphasis added). At this point in time, the SEC has not entered into deliberations regarding the application. Therefore, these parties cannot invoke the provisions of RSA 162-H:14 at this time. Counsel for the Public’s and the Forest Society’s requests are premature and should be rejected for this reason.

8. However, assuming *arguendo* that the SEC can suspend the time frames established in RSA 162-H:7 in the manner that these parties suggest, neither Counsel for the Public nor the Forest Society has met its burden of proof. Other than speculation on the part of these parties, nothing in the present record before the SEC would suggest, let alone prove, that suspension of the time frames in RSA 162-H:7 is warranted and in the public interest. It appears that both of these parties have assumed, at the outset of this matter, that compliance with the 365-day time frame is unworkable and have not made an effort to comply with the statute. Their speculation and apparent unwillingness to comply with the statutory scheme are insufficient grounds to give rise to imposing a lengthier period of review for the application.

9. The AMC, in supporting the Forest Society’s proposed schedule, states that “[a]dhering to the twelve-month schedule . . . is not reasonable, advisable, or fair, and does not respect the interests of the Intervening Parties.” AMC Filing, dated March 30, 2016. The AMC goes on to state “[a] sudden need for urgency on the Applicant’s part is not substantiated by its record to date. In other words, what is the rush?” Upon review of the Applicant’s proposed procedural schedule, the Group notes that the Applicant is not seeking expedited treatment of its application. The Applicant’s schedule does not reflect a sudden need for urgency as the AMC

suggests. It simply adheres to the statute. The AMC's arguments, similar to Counsel for the Public's arguments and the Forest Society's arguments, rest on speculation. Nothing contained in the record would suggest that delaying the SEC's evaluation of this application by either six months or a full year would be in the public interest. As such, their arguments fail.

10. Counsel for the Public's and the Forest Society's arguments are further undermined by the plain language of the purpose clause of the statute. As the declared purpose of the statute provides, "it is in the public interest . . . that undue delay in the construction of new energy facilities be avoided. . . ." RSA 162-H:1 (emphasis added). Counsel for the Public's and the Forest Society's proposed procedural schedules do not represent a nominal increase in the time frame by which this application will be reviewed. They do not represent a delay of a few days or even a few weeks. Rather, these parties seek a substantial and unnecessary delay of months or, in the case of the Forest Society's request, delay of a full year. These requests, if accepted, would cause undue delay in the construction of a new energy facility—delay the Legislature sought to avoid when it enacted the statute. For this reason, Counsel for the Public and the Forest Society cannot meet their burden of proving that suspending the time frame would be in the public interest. As a result, their proposed schedules should be rejected.

11. As a final matter, the Group has unique interests that will be adversely impacted if the SEC agrees to a schedule that is beyond the statutory time frame. As discussed in its petition to intervene, the Group's goal is to encourage and cultivate economic development and opportunities across business sectors to help promote growth and prosperity within Coos County, New Hampshire. The above-captioned project will provide numerous benefits to Coos County, New Hampshire and an economy that is struggling and in desperate need of revitalization. Any delay to the evaluation of this project would hinder the goals and objectives of the Group. These

delays would also deprive individuals of numerous benefits that the project—both in its construction and its aftermath—has to offer the community. It follows that delaying the evaluation of this project would not serve the public interest. As a result, the Forest Society and Counsel for the Public have each failed to meet their burden of proof and the relief they have requested should be denied. See Site 202.19(a).

12. Based on the foregoing, the Group requests that the SEC reject both Counsel for the Public's and the Forest Society's proposed procedural schedules. Neither proposed time frame would serve and further the public interest in this matter. As a result, the Group requests that the SEC adopt the Applicant's proposed schedule, which adheres to the statutory scheme, and that all parties make their best efforts to comply with said schedule.


WHEREFORE, the Group respectfully requests that the SEC:

- A. Reject Counsel for the Public's and the Forest Society's proposed procedural schedules;
- B. Approve and adopt the Applicant's proposed procedural schedule; and
- C. Grant such other and further relief as may be just.

Respectfully submitted,
COOS COUNTY BUSINESS AND EMPLOYERS
GROUP

By Its Attorney,

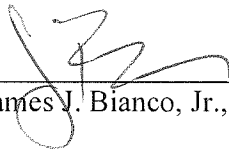
Dated: 4/7/16

By: 
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Certificate of Service

I hereby certify that a copy of the foregoing was sent by electronic mail to persons named on the SEC distribution list.

Dated: 4/7/16

By: 
James J. Bianco, Jr., Esq. (NH Bar #4)