



For a thriving New England

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May 5, 2016

VIA EMAIL AND HAND-DELIVERY

Ms. Pamela G. Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

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

Dear Ms. Monroe:

Please find enclosed for filing in the above-referenced matter an original plus eight copies of the Motion of Conservation Law Foundation, Appalachian Mountain Club, Sierra Club Chapter of New Hampshire and Ammonoosuc Conservation Trust to Exceed the Default Data Request Allotment Under Site 202.12.

Copies of this filing have, this date, been forwarded via email to all parties on the Service List in this docket.

Please feel free to contact me should you have any questions or concerns.

Sincerely,

Melissa E. Birchard

MEB/dlh

Encls.

cc: Docket No. 2015-06 Service List

**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

**MOTION OF CONSERVATION LAW FOUNDATION, APPALACHIAN
MOUNTAIN CLUB, SIERRA CLUB CHAPTER OF NEW HAMPSHIRE AND
AMMONOOSUC CONSERVATION TRUST TO EXCEED THE DEFAULT
DATA REQUEST ALLOTMENT UNDER SITE 202.12**

The Conservation Law Foundation (“CLF”), Appalachian Mountain Club (“AMC”), the Sierra Club Chapter of New Hampshire (“Sierra Club”) and Ammonoosuc Conservation Trust (“ACT”) (collectively, the “NGO Intervenor Group”), acting by and through their designated intervenor group spokesperson, pursuant to Site 202.12(d), hereby request that the number of data requests allowed to be served upon the Joint Applicants by the NGO Intervenor Group be increased from 50 to 100. In support thereof, the NGO Intervenor Group states as follows:

1. The NGO Intervenor Group was created by the Order on Petition to Intervene dated March 18, 2016. Motions to alter the grouping were rejected by the Subcommittee at the hearing held April 8, 2016 in this docket. *See* Joint Request of Intervenors dated March 28, 2016 filed by CLF; Request for Reconsideration by Sierra Club dated March 27, 2016.
2. Pursuant to Site 202.12(d), “a person or group of persons” is permitted to serve not more than 50 data requests “unless otherwise permitted by ruling of the presiding officer or any hearing officer designated by the presiding officer” upon a

request seeking to increase the number of allowed data requests. Although the rule is not clear as to the treatment of an unusual multi-party grouping such as the NGO Intervenor Group, one reading is that this combined group of four parties is subject to the limit of 50 discovery requests, unless otherwise permitted. Accordingly, the NGO Intervenor Group files this motion seeking permission to serve upon the Joint Applicants 100 discovery requests.

3. The standard to be applied in ruling on a request for additional data requests is as follows: “a finding that the proposed number of data requests is necessary to address the complexity of relevant issues and would not adversely affect the conduct of the proceeding.” Site 202.12(d).

4. The first part of the requisite finding, i.e., that the increase in the number of data requests is necessary to address the complexity of relevant issues, is clearly met here. The Northern Pass Project (the “Project”) is of a size and complexity perhaps not before seen in New Hampshire. The extraordinary number of intervenors and interested parties is witness to that fact. Further evidence of the complexity of the issues is the sheer volume of the application itself, which comprises tens of thousands of pages including the pre-filed testimony of 26 witnesses.

5. As described in CLF’s March 9 filing in this docket, and in the March 28 joint filing of CLF, AMC, and ACT, a wide variety of issues form the bases for our organizations’ concerns about the Project. This gives rise to a need for data requests that are not common to all intervenors comprising the NGO Intervenor Group. By way of illustration and not by way of limitation, CLF is greatly concerned about the implications of the Project for the goal of a regional clean energy future that includes clean, local

generation; AMC is concerned about the aesthetic impacts of the above-ground transmission lines on its members' outdoor experiences; Sierra Club is concerned about community and health impacts resulting from the generation in Canada; ACT is concerned about the aesthetic and land use impacts on a specific area of New Hampshire.

6. If the NGO Intervenor Group is limited to 50 data requests and if the data requests are divided equally among the four organizations, then two organizations will have only 12 data requests and two organizations will have only 13 data requests. Taking AMC as an example, 13 data requests simply cannot be adequate to probe the foundations of a several hundred page visual impact assessment by the Joint Applicants that covers more than 192 miles of transmission line which traverses a wide variety of New Hampshire landscapes, plus associated testimony. The same obvious inadequacy applies to the issues of concern to the other three members of the NGO Intervenor Group.

7. The second part of the requisite finding, i.e., that permitting an increase in allowed data requests "would not adversely affect the conduct of the proceeding," is also met here. First, the request is being made before the deadline for serving data requests and seeks a relatively modest change (i.e., far less than the full 200 data requests typically available to four individual parties). Second, the organizations comprising the NGO Intervenor Group have professional expertise on the issues concerning which discovery will be sought. In fact, their interventions were allowed because that expertise would be of assistance to the Committee. *See* Order on Petitions to Intervene at 34. Allowing these organizations to probe the Joint Applicants' positions on critical issues will allow the organizations to better prepare for the adjudicatory hearing portion of this proceeding and thus be more efficient in use of hearing time. Further, the organizations will be better

positioned to assist the Committee in its role as decision maker by providing the Committee with testimony that is highly probative of the issues central to this proceeding. It also may reduce the need for cross-examination at hearing, and allow a more complete airing of key facts. In addition, the organizations' professional expertise and representation by counsel will facilitate their efforts to ensure that any discovery requests served by their grouping are appropriate, within the spirit and scope of this proceeding, and non-duplicative of other discovery requests. Finally, the organizations will be better able to represent the interests of their members, which vary greatly by organization.

8. The undersigned has communicated with Barry Needleman, counsel for the Joint Applicants, concerning the issue of increasing the number of data requests allowed to the NGO Intervenor Group. Unfortunately no mutual agreement was reached as a result of those communications, therefore the NGO Intervenor Group submits this motion. The following parties assent, oppose, or take no position on this filing:

Oppose

Joint Applicants

Assent

Alan Robert Baker (on behalf of clients David Schrier, Rodrigue and Tammy

Beland, Eric, Elaine and Josh Olson, and Rodney Moore, et al)

Bethlehem Conservation Commission

Coos County Commissioner District Three (Rick Samson)

Russ and Lydia Cumbee

Grafton County

Historic Preservation Intervenor Group Organizations

Holderness Conservation Commission

Thomas Mullen

Mark and Susan Orzeck

Kris Pastoriza

Susan Percy

Society for the Protection of New Hampshire Forests

Robert and Joanne Tuveson


No Position

City of Berlin

WHEREFORE, the NGO Intervenor Group respectfully requests that the presiding officer or a person designated as the hearing officer:

- A. Permit the NGO Intervenor Group to propound 100 data requests upon the Joint Applicants; and
- B. Grant such other and further relief as justice may permit.

Respectfully submitted,

By: 

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Dated: May 5, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has on this 5th day of May 2016 been sent by email to the service list in Docket No. 2015-06.



Melissa E. Birchard