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May 11, 2016

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

**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,

The Applicants enclose for filing in the above-captioned matter, an original and 1 copy of their Objection to 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.

Please contact me directly should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Needleman".

Barry Needleman

BN:vcf

cc: Distribution List

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

SEC DOCKET NO. 2015-06

**JOINT APPLICATION OF NORTHERN PASS TRANSMISSION LLC &
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANTS' OBJECTION TO 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**

NOW COME Northern Pass Transmission LLC ("NPT") and Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") (collectively the "Applicants"), by and through their attorneys, McLane Middleton, Professional Association, and respectfully submit this Objection to the Conservation Law Foundation ("CLF"), Appalachian Mountain Club ("AMC"), Sierra Club Chapter of New Hampshire ("NHSC") and Ammonoosuc Conservation Trust ("ACT") (together as "NGOs") Motion To Exceed the Default Data Request Allotment Under Site 202.12 (the "Motion").

1. On May 5, 2016 the NGOs filed a Motion with the New Hampshire Site Evaluation Committee ("SEC" or "Committee") requesting that the number of data requests allowed to be served upon the Applicants be increased from 50 to 100, which is 50 data requests more than the regulatory limit. Site 202.12.

2. Site 202.12(d) sets out the requisite standard that must be satisfied before a request for additional data requests may be considered by the Committee. First, the requesting party must show that the proposed number of data requests is necessary to address the complexity of relevant issues. Second, the requesting party must show that the additional data

requests would not adversely affect the conduct of the proceedings. *See* Site 202.12(d). The NGOs have failed to demonstrate either of these threshold requirements.

3. As alleged evidence of the complexity of the issues the NGOs state “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.” Motion at 2. This type of generality is unacceptable for the type of relief being requested. Merely stating that the Project is large and complex cannot be construed as substantive evidence of the alleged complexity of specific relevant issues. The NGOs go on to state “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.” *Id.* Again, the NGO’s assertion lacks the kind of specificity required to meet the standard under Site 202.12(d).

4. Under Site 202.12(d) the NGOs have an obligation to identify specific relevant issues and explain specifically why such issues are sufficiently complex to necessitate additional data requests. The NGOs have failed to point to a single issue that they will be unable to address. Instead, they argue that the “wide variety of issues” shared among the four respective organizations “gives rise to a need for data requests that are not common” to the organizations. *Id.* This argument is a misapplication of the standard under Site 202.12(d). The rule requires a showing of need based on the complexity of relevant issues before the proceeding. It does not call for consideration of the interests of the members that make up an intervenor group. In any event, such an assessment was conducted by the Presiding Officer when he grouped the parties in the first place. In the March 18, 2016 Order on Petitions to Intervene (“Order”) the Presiding Officer grouped the parties based on the similar interests they shared and in order to preserve the

orderly conduct of the proceeding. The Presiding Officer's assessment in grouping the NGOs specifically included consideration of the interests of the organizations.

5. Moreover, disregarding the question of *whether* the NGOs in fact have distinguishable interests in this proceeding, they have not sufficiently demonstrated *how* their interests are so materially different as to warrant the relief being sought. They list several broad interests and qualify the list as an "illustration" of multiple interests among the different organizations. *See* Motion at 2. However, the NGOs still fail to demonstrate why, collectively, they cannot explore each issue within the bounds of the regulatory limit for discovery. That is, they have not demonstrated any actual necessity for the requested relief.

6. The NGOs also contend that permitting an increase in the number of allowed data requests will not adversely affect the conduct of the proceeding. In support of this claim they offer two positions. First, they state that they made the request prior to the deadline for serving data requests and that the request is for a relatively modest change. Second, they argue that granting additional data requests will allow the organizations to better prepare for the adjudicatory hearing thereby making the adjudicative hearing portion of this proceeding more efficient. *Id.*, at 3.

7. To the first point, what the NGOs characterize as a "relatively modest" increase in allowed data requests is in fact a 100% increase – double the limit prescribed by the rules. Given the number of parties to this proceeding the Applicants already almost certainly face a very heavy burden of responding to an enormous number of data requests. The Presiding Officer was appreciative of this in his grouping of the intervenors. Indeed, the present issue was incorporated into his assessment. The Order made clear that organizations may be grouped for the specific purpose of propounding data requests. Order at 48. As the Applicants have previously stated, the

Presiding Officer's groupings represent a fair balance of the competing due process rights of all parties and a well-conceived effort to ensure that intervenors can participate in a way that does not interfere with the orderly conduct of the proceedings. *See Applicants' Response and Objection to Various Requests From Interveners For Review of Their Status as Determined By The Presiding Officer In The March 18, 2016 Order.*

8. To the second point, the NGOs argue that allowing them to propound additional data requests now will allow them to be more efficient in their use of time during the hearing. This assertion amounts to a request that the Committee risk the orderly conduct of the proceeding during the discovery phase on the presumption that the time will be made up during the hearing phase of the proceeding. Such an argument has no basis and falls short of the requisite standard.

9. As noted previously, the Applicants reaffirm their position that the number of parties in this proceeding represents the upper limit of a workable number of parties. Granting additional data requests absent a very specific showing of absolute necessity will be disruptive and threaten the orderly conduct of the proceeding. NPT believes that the orderly conduct of the proceeding is accommodated when the parties are able to reach agreement among themselves, but in this case the parties were unable to reach agreement. Nevertheless, NPT would not object to the Applicants in this case being permitted to ask 80 data requests, which represents a 60% increase above that allowed by rule, and would put them in a position to make 20 data requests a piece, if they choose to allocate the total in such a manner.

Respectfully submitted,

Northern Pass Transmission LLC and Public

Service Company of New Hampshire d/b/a

Eversource Energy

By Its Attorneys,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: May 11, 2016

By: 

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Certificate of Service

I hereby certify that on the 11th of May, 2016, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.


Barry Needleman