

May 13, 2016

By E-Mail & U.S. Mail

Pamela G. Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301-2429
pamela.monroe@sec.nh.gov

Re: 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

Dear Ms. Monroe:

Enclosed for filing in the above-captioned proceeding is Counsel for the Public's Motion for Leave to Retain T.J. Boyle Associates and for an Order Directing the Applicants to Bear the Costs Thereof.

Copies of the enclosure have been forwarded via e-mail to all parties on the enclosed Distribution List.

Thank you.

Sincerely,



Thomas J. Pappas

TJP/slb - 2398430_1

Enclosure

cc: Peter C.L. Roth, Esq.
Elijah J. Emerson, Esq.
Distribution List via e-mail

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

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

**COUNSEL FOR THE PUBLIC'S MOTION FOR LEAVE TO RETAIN
T.J. BOYLE ASSOCIATES AND FOR AN ORDER DIRECTING
THE APPLICANTS TO BEAR THE COSTS THEREOF**

Counsel for the Public, by his attorneys, the Office of the Attorney General and Primmer Piper Eggleston and Cramer PC, hereby moves, pursuant to RSA 162-H:10, V, for leave to retain an expert consultant and for an order directing Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (the "Applicants") to bear the costs and fees of the consultant and reimburse Counsel for the Public or pay the fees and costs directly to T.J. Boyle Associates ("Consultant"), in an amount up to \$362,502. In support hereof, Counsel for the Public respectfully represents as follows:

A. BACKGROUND.

On October 19, 2015, Applicants submitted a Joint Application for a Certificate of Site and Facility (the "Application") to the New Hampshire Site Evaluation Committee (the "Committee" or "SEC") to construct a 192-mile transmission line to run through New Hampshire from the Canadian border in Pittsburg to Deerfield (the "Project"). The Application with its appendices contains more than 27,000 pages including numerous expert reports and studies.

On November 2, 2015, the Chairman of the Committee appointed a Subcommittee (the "Subcommittee") to consider the Application. The Subcommittee accepted the Application on

December 18, 2015. The Applicants provided additional information for the Application on February 26, 2016, pursuant to the revised SEC Rules effective December 16, 2015.

B. LEGAL STANDARD.

Pursuant to RSA 162-H:9, I, Counsel for the Public “shall represent the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy. The counsel shall be accorded all the rights and privileges, and responsibilities of an attorney representing a party in formal action and shall serve until the decision to issue or deny a certificate is final.” Moreover, RSA 162-H:10, V, authorizes Counsel for the Public to “conduct such reasonable studies and investigations as [he] deems necessary or appropriate to carry out the purposes of this chapter” Counsel for the Public “may employ a consultant or consultants ... in furtherance of the duties imposed by this chapter, the cost of which shall be borne by the applicant in such amount as may be approved by the committee.” *Id.* Counsel for the Public’s broad role includes conducting studies and investigations necessary and appropriate to carry out the purposes of the statute. Order on Pending Motions, *In re Request of SEA-3, Inc. for Exemption*, dated August 10, 2015, at 9. Those issues “go beyond protection of the environment and assuring an adequate supply of energy” and include any matters identified in RSA 162-H:1. *Id.*

C. ARGUMENT.

Counsel for the Public wishes to retain T.J. Boyle & Associates to provide expert analysis and opinion concerning the Project’s impacts to aesthetics and scenic resources. The details of services that will be provided are set forth in the attached Exhibit A. The rates the Consultant will charge are also set forth in Exhibit A. The total cost of the work is estimated at approximately \$362,502.

Upon careful consideration of the Application, Counsel for the Public has deemed that the retention of the Consultant's services to analyze the Project's impacts to aesthetics is necessary to carry out the purpose of the siting statute and to evaluate if the Project will assure an adequate supply of energy without unreasonably and adversely affecting the quality of the environment, including aesthetics and scenic resources. As stated in RSA 162-H, the purpose of the siting statute is to find "a balance among those potential significant impacts and benefits" of the Project. RSA 162-H:1. The impacts on New Hampshire's natural and scenic beauty is perhaps the single greatest impact that the Project will have both in terms of the importance of the affected resource and the sheer size of the Project and its impact. A significant portion of the State's economy is directly tied to its scenic and natural beauty and indeed for many of New Hampshire's people their identity as New Hampshire citizens is connected to the landscapes and its beauty.¹ Many people have commented publically about this factor, some citing multiple generations of efforts to preserve the land in its natural form and appearance. As a matter of public perception alone this is the Project's single greatest drawback, evoking a great deal of emotion and concern among many reasonable and thoughtful people. The Project will have numerous road and river and pond crossings. It will cross significant mountains and valleys. All of this presence will have some visual impact. Retention of the Consultant is necessary because it will provide Counsel for the Public and the Committee, and ultimately the people of New Hampshire, with an unbiased, independent, and thorough analysis of those impacts in making their determination of how the Project may impact or benefit the welfare of the population, private property, industry and general economic growth, and whether the Project is in the public interest.

¹ From 1957 until 1970, New Hampshire's motor vehicle license plates carried the word "SCENIC," except for 1963 when they said "PHOTOSCENIC."
https://en.wikipedia.org/wiki/Vehicle_registration_plates_of_New_Hampshire.

In addition to testimony submitted by company officials, the Applicants have provided expert testimony from Terrence DeWan and Jessica Kimball, which includes a visual impact assessment (referred to as the “DeWan Report”). The DeWan Report concludes that the Project’s proposal to install a new transmission line and related facilities over approximately 192 miles in New Hampshire would not result in unreasonable adverse effects on aesthetics. In reaching this conclusion, the DeWan Report employed a particular methodology, selected certain viewpoints to examine, and made judgment calls regarding the level of adverse effect the Project would have on identified scenic views. Pursuant to RSA 162-H, it is Counsel for the Public’s responsibility to test the underlying methodology and conclusions in order to inform the Committee whether the Project would create an unreasonable adverse effect on aesthetics.

Counsel for the Public wishes to retain Consultant to provide expert analysis and opinion concerning the Project’s aesthetic impacts on New Hampshire, which requires Consultant to perform, among other tasks, the following work: assisting Counsel in preparing discovery questions; critically reviewing the DeWan Report and the Project’s visual impact; conducting field investigation; working with host communities to obtain information regarding the extent of Project visibility and the location of scenic resources; preparing an independent visual analysis; coordinating with the historic and cultural resources experts; and participating in SEC proceedings. It is critical that Counsel for the Public and the Committee evaluate the DeWan Report’s comprehensiveness, the logic and appropriateness of the approach and methods used, its internal consistency, and the adequacy of the proposed mitigation. Particular attention will be given to the DeWan Report’s viewshed’s accuracy, and the professional acceptability of the simulation process, including viewpoint locations, and methods used to register rendered computer images of the Project with the simulation photograph.

Counsel for the Public researched, investigated and interviewed potential experts prior to selecting the Consultant. The Consultant possesses the appropriate balance between (a) experience and relevant expertise, and (b) cost-effectiveness. Of note, Consultant already has familiarity with the Project as it prepared the visual impact assessment for the United States Department of Energy in the Presidential Permitting process. Moreover, Counsel for the Public has worked with Consultant to refine its scope of work to make sure it is focused to achieve prudent advice at a reasonable cost.

Counsel for the Public will forward Consultant's invoices to the Applicants' counsel for payment by the Applicants. Counsel for the Public also will forward to Applicants' counsel a forecast of estimated future costs so that Applicants can budget for them.

WHEREFORE, Counsel for the Public prays that the Committee enter an order authorizing the employment of T.J. Boyle Associates as consultant pursuant to RSA 162-H:10, V, and directing the Applicants to bear the costs, as incurred monthly, up to a total of \$362,502, and granting such other relief as may be just.

The Applicants' Position:

The Applicants assent to the relief sought in the motion, but not to any characterizations in the motion about the case or the Application.

The Following Parties Concur in this Motion:

The City of Concord
The City of New Hampton
The Town of Bridgewater
The Town of Woodstock
The Town of Littleton
The Town of Deerfield
The Ashland Water District
The Town of Bristol
The Town of Easton

The Town of Franconia
The Town of Northumberland
The Town of Sugar Hill
The Town of Whitefield
The Society for the Protection of NH's Forests
The Conservation Law Foundation
The Deerfield Abutter's Group
Susan E. Percy
Mark and Susan Orzeck
Virginia Jeffries
Jon and Lori Levesque
David Schrier
Rodrigue and Tommy Beland
Eric, Elaine and Joshua Olson
Rodney Moore, et al
Cheryl Jenson, Co-Chair, Bethlehem Conservation Commission
Mary Lee
Taras Kucman
Maureen Quinn
Brad and Daryl Thompson

The Following Parties Object to this Motion:

No party has indicated their objection to the motion.

The Following Parties Take No Position on this Motion:

The City of Berlin

Respectfully submitted,

COUNSEL FOR THE PUBLIC,

By his attorneys,




Dated: May 13, 2016

By:

Peter C.L. Roth, Senior Assistant Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3679

PRIMMER PIPER EGGLESTON & CRAMER PC,

Dated: May 13, 2016

By: 
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-and-

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION FOR LEAVE TO RETAIN T.J. BOYLE ASSOCIATES AND FOR AN ORDER DIRECTING THE APPLICANTS TO BEAR THE COSTS THEREOF has this day been forwarded via e-mail or mail to persons named on the Distribution List of this docket.

Dated: May 13, 2016



Thomas J. Pappas, Esq. (N.H. Bar No. 4111)

Exhibit A

**Proposed Scope of Work to review the Visual Impact Analysis
of the Northern Pass Transmission – Eversource Project (SEC Docket No. 2015-06)
on behalf of the New Hampshire Site Evaluation Committee**

Task A. Project Orientation/Interpretation of SEC Rules/Procedures

TIMELINE: MAY 2016 THROUGH JUNE 2016

TJBA will read and review (1) the new SEC rules relating to visual impact assessment (VIA), and (2) the NPT VIA-related application and supplementary materials. TJBA will first prepare a memo explaining our interpretation of the new SEC rules and points that we think need clarification. Based on this understanding, a preliminary review memo will then be prepared that examines whether the VIA addresses all of the SEC requirements. This memo will also include proposed discovery questions and requests.

This Task is scheduled for May through June. The deliverables include two memo-style reports plus discovery questions.

Task A. Outline

- I. Setup Project Database and Structure as a Distinct Project to Review Northern Pass Application (Separate from Analysis Prepared for DOE)
 - a. Utilize Existing Photographic Inventory (Existing Database of 1,713 Unique Locations Visited, Including Road Crossings, Fire Towers, Peaks, Interstates, Trails, Leaf-On and Leaf-Off)
 - b. Utilize Existing GIS Database of Scenic Resources
 - c. Utilize Existing Vegetated Viewshed
- II. Review SEC Rules and Procedures
 - a. Review and Clarify New SEC Requirements with Counsel/AG Office
 - i. Role of Non-Designated Scenic Resources (Including Private Land)
 - ii. Role of Designated Scenic Resources
 - iii. Role of Other Public or Private Areas with Public Investment (i.e. Road Crossings)
 - iv. Community Identified Resources (See Task D.)
 - b. Prepare Interpretive Memo to SEC with Points Requiring Clarification
- III. Review NPT Application and VIA (and Supplemental Filing) Prepared by TJDA
 - a. Prepare Preliminary Review Memo to SEC
- IV. Prepare Discovery Questions (Both Formal and Informal)
 - a. Include in Preliminary Review Memo to SEC
- V. One (1) In-Person and/or Three (3) Teleconference Meetings in Burlington, VT or New Hampshire
- VI. Project Management, Internal Meetings, Read Relevant NPT News and Hearing Transcripts, Internal Meetings and Ongoing Communication

TOTAL EFFORT TASK A

228 HOURS

Task B. NPT VIA Review and Report

TIMELINE: JUNE 2016 THROUGH JULY 2016

TJBA will complete a critical review of the NPT VIA evaluating its comprehensiveness, the logic of the approach used, its internal consistency, the appropriateness of the methods used, and the adequacy of the proposed mitigation. Particular attention is paid to the accuracy of the viewsheds, and the professional acceptability of the simulation process, including location of viewpoints, how KOPs are selected, and methods used to register

rendered computer images of the Project with the simulation photograph. The emphasis of this task is to identify portions of the VIA that are incomplete, not covered, or appear to be in error. We will also identify any area that will have an unreasonable impact as discernable from the information provided with the NPT application. This report will not be an exhaustive list individual sites inadequately addressed by the VIA; nor will it provide a corrected analysis.

This Task is scheduled for June through July. The deliverable is a critical review report that includes an executive summary.

Task B. Outline

I. Critical Review of NPT VIA

- a. Review Logic of Approach (Does VIA Fulfill SEC Requirements?)
- b. Review Comprehensiveness of Coverage
- c. Review Selection of KOPs and Photography for Representativeness
 - i. Utilize Existing TJBA Database of Information Where Possible (Photos, Research, NextMAP DEM Data)
- d. Review Scenic Significance Ratings and Viewer Impact Ratings
- e. Review Consistency of Approach
- f. Review of Proposed Vegetative Management and Mitigation Measures
 - i. Are Proposed Veg. Management and Mitigation Measures Sufficient?
 - ii. Is it Acceptable that the NPT Proposal Does Not Rely on New Vegetative Mitigation at Any Location?
 - iii. Are Potential Mitigation Measures Rejected in the Application Acceptable for Rejection?
- g. Prepare Interim Review Memos to Communicate Our Approach and Provide an Opportunity for Review/Feedback by the SEC as Needed

II. Technical Review of Simulation Methodology

- a. Review NPT VIA Simulations for Potential Errors
- b. Evaluate Google Earth Simulation Approach Used in NPT VIA and Validate Five (5) Simulations Using CAD-Based Wireframe Analysis
- c. Identify Any Inadequacies in Simulation Methodology

III. Review NPT VIA Viewsheds for Accuracy

- a. Compare NPT VIA Viewsheds with EIS GIS Viewshed Analysis (So-Called “Alternative 7” of the EIS)
 - i. Including Converter Station and Substation Viewsheds

IV. Field Investigation and Review of Any Outstanding Areas That Should Be Visited for Assessment

V. Prepare Critical Review Report

- a. Executive Summary
- b. Critique of NPT VIA, KOPs, Vegetative Management/Mitigation, Simulations
- c. Identify Areas of Unreasonable Adverse Impact As Discernable By Review of Information Provided By NPT
- d. Identify Information Not Covered in NPT VIA That NPT May Need to Address, Including:
 - i. Community Identified Resources (See Task D)
 - ii. Laydown Areas & Access Locations/Roads
 - iii. Other Errors or Omissions
- e. Summary of Conclusions

VI. One (1) In-Person and/or four (4) Teleconference Meetings in Burlington, VT or New Hampshire

VII. Ongoing Project Management and Coordination

TOTAL EFFORT TASK B

488 HOURS

Task C. Coordinate with Host Communities

TIMELINE: JUNE 2016 THROUGH SEPTEMBER 2016

The new SEC rules provide for the consideration of locally significant scenic resources and values. A comprehensive inventory of these resources does not exist. TJBA will work with the AG's office to provide host communities with information about the extent of project visibility and the location of scenic resources that are currently in the GIS database. Workshops will be scheduled where host communities can nominate additional scenic resources that have potential visibility of the NPT. These resources will be field checked, and added to the GIS database for use in Task E Independent Visual Analysis, described below.

This Task is scheduled for June through September. The deliverables will be the information package tailored for each host community, and the GIS database of locally nominated scenic resources with potential visibility of the NPT.

Task D. Outline

- I. Community Outreach
 - a. Provide Host Towns an Information Package, Including:
 - i. Viewshed Maps With Structure Locations and Viewpoints for Each Town
 - ii. Known Local Scenic Resources
 - iii. Information Requests/Questions To Towns to Identify Areas of Concern
 - Identify Town Scenic Resources
 - Outline Results and/or Comments From Any Previous Public Referendums on Northern Pass Related to A Scenic Resource
 - Identify Non-Designated Resources Such as Neighborhoods, Parks or Schools, or Specific Private Properties, Town Trees, etc.
- II. Coordinate with NH Attorney General's Office to Contact Host Communities (Clerks and Selectboards) to Review Process and Discuss Timeline/Deadlines for Returning Information
- III. Meet with Town Citizens OR Town Representatives to List/Map/Identify Community Resources As Defined by the SEC
 - a. Assumes Twelve (12) Separate Meetings With Breakout Sessions, Including Large Viewshed and Aerial Maps For Each Town
 - b. Locate Community Identified Resources on Maps and Prepare List of Any Previously Unknown Resources
- IV. Field Investigation, Verification and Documentation of Community Identified Resources
- V. Create/Digitize a Database of Community Identified Resources and Outline Areas that Have Not Been Addressed By NPT, Including Impacts to Non-Designated Resources Such as Neighborhoods, Parks or Schools, or Specific Private Properties.
 - a. Prepare Follow-Up of Meetings with Summary for Each Town
- VI. Six (6) Teleconference Meetings
- VII. Ongoing Project Management and Coordination

TOTAL EFFORT TASK C

752 HOURS

Task D.Independent Visual Analysis

TIMELINE: JULY 2016 THROUGH OCTOBER 2016

TJBA will draw on the results of the preceding four tasks to prepare an independent visual analysis. The VIA will be organized by town, and will apply the new SEC evaluation criteria (Site 301.05 (b) (6) and Site 301.14 (a)) to all known scenic resources potentially affected by NPT. To the extent possible, this analysis will use existing information from the DOE DEIS and the NPT application to the SEC. It is anticipated that up to 10 additional photographic simulations will be needed to represent types of impacts not otherwise shown.

This Task is scheduled for July through October. The deliverable is a technical report, with executive summary.

Task E. Outline

- I. Comprehensive Review under SEC Criteria of All Public Exposure from Extensive T. J. Boyle Associates Database and Community Identified Resources from Task D (Road Crossings, Scenic Resources, Parks, Lakes, Rivers, etc.)
- II. Utilize Existing GIS Vegetated Viewshed from EIS, Create Terrain Viewshed of Proposed Project
- III. Additional Field Investigation for Corrections or Additional Photography As Needed
- IV. Field Investigation to Document Similar Example Projects and Example Mitigation Measures
- V. Town By Town GIS Mapping of Viewsheds, Photograph Locations, and Scenic Resources
- VI. Simulations (Up to 8 to Cover Community Identified Resources Not Simulated Within EIS and/or NPT VIA)
- VII. Prepare Visual Analysis Report
- VIII. Web Conference Meetings
- IX. Ongoing Project Management and Coordination

TOTAL EFFORT TASK D

630 HOURS

Task E. Legal Proceedings

TIMELINE: JUNE 2016 THROUGH JUNE 2017

TJBA will participate in SEC proceedings and support the State as requested. It is anticipated that this will include preparing discovery questions for the applicant and responding to discovery questions from the applicant, participating in technical sessions and evidentiary hearings, and preparing testimony.

This Task is scheduled for June 2016 through June 2017. The deliverables will be requested discovery questions, memos and testimony.

Task F. Outline

- I. Help Prepare Ongoing Discovery Questions and Data Requests for NPT (Additional to Task A)
- II. Technical Sessions with Applicant (Assuming 2-3 Days)
- III. Attend Future SEC Public Hearings/Site Visits – (Assuming 4 to 5 All-Day Visits Including Preparation)
- IV. Prepare Testimony
- V. Respond to Discovery
- VI. Technical Sessions with T. J. Boyle Associates (Assuming 2-3 Days)
- VII. Evidentiary Hearings (Assuming 5-6 Days for T. J. Boyle Associates)
- VIII. Preparation Meetings
- IX. Ongoing Project Management

TOTAL EFFORT TASK E

524 HOURS

Task F. Historic Resources Collaboration

TIMELINE: JUNE 2016 THROUGH SEPTEMBER 2016

Historic and cultural resources have risen to become a major issue of contention. Visual impacts effecting the integrity of a historic resource are considered as part of the Section 106 process. In addition to individual historic sites, serious attention is being given to the potential eligibility of the North Country's traditional landscape pattern for listing on the National Register of Historic Places. TJBA proposes to coordinate with the SEC historic and cultural resources expert to provide additional support evaluating visual impacts to a limited list of critically impacted resources. It is anticipated that the historic and cultural resource experts will contribute to Task C: Coordinate with Host Communities.

This Task is scheduled for June through August. The deliverables will be raw analyses provided to the SEC historic and cultural resources expert, and would potentially be used in Task E Independent Visual Analysis, described below.

Task F. Outline

- I. Collaborate for Review of Historic Resources
 - a. Review relevant cultural and historic resources documents
 - b. Identify a Limited List of Critically Impacted Resources
 - c. Coordinate the design of the community outreach meetings
- II. Fieldwork in Relation to Historic Resources
 - a. Fieldwork with cultural and historic experts at visually sensitive sites
 - b. Fieldwork with cultural and historic experts identifying and documenting traditional landscape patterns
- III. Teleconference Meetings (Assuming 3)
- IV. Simulations for Historic Resources not presently represented in the DOE VIA or NPT VIA (Assumes 4)
 - a. Significantly impacted sensitive historic site
 - b. North Country landscape types
- V. Project Management and Coordination
 - a. Review draft historic and cultural resources report sections that relate to visual impacts

TOTAL EFFORT TASK F	290 HOURS
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TOTAL LABOR (2,912 hours X \$104 / hour)	\$302,848
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10% CONTINGENCY (291 hours X \$104 / hour)	\$30,264
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DIRECT EXPENSES (miles, meals, lodging, printing, etc.)	\$29,390
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PROJECT TOTAL	\$362,502
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**Northern Pass Transmission LLC and Public Service Company of New Hampshire dba
Eversource Energy
SEC 2015-06
Distribution List**

Subcommittee Members

Chairman, Public Utilities Commission Martin Honigberg, Chairman 21 South Fruit St., Suite 10 Concord, NH 03301 Martin.honigberg@puc.nh.gov	Dept of Environmental Services Craig Wright, Director, Designee 29 Hazen Dr., P.O. Box 95 Concord, NH 03302-0095 Craig.Wright@des.nh.gov
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Alternate Public Member Rachel Whitaker 22 Fogg Road Stark, NH 03583 rwhitaker@ccsnh.edu	

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**Northern Pass Transmission LLC and Public Service Company of New Hampshire dba
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SEC 2015-06
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**Northern Pass Transmission LLC and Public Service Company of New Hampshire dba
Eversource Energy
SEC 2015-06
Distribution List**

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Interested Persons

<p>New Hampshire Public Radio Environment Reports Sam Evans-Brown 2 Pillsbury St., 6th floor Concord, NH 03301 Sevans-brown@nhpr.org</p>	<p>NH Department of Environmental Services Land Resources Management Collis G. Adams, Wetlands Bureau Administrator 29 Hazen Dr. Concord, NH 03302 Collis.adams@des.nh.gov</p>
<p>Carol Henderson Environmental Review Coordinator NH Fish and Game 11 hazen Drive Concord, NH Carol.henderson@wildlife.nh.gov</p>	
<p>Cindy Kudlik Grafton, NH cindykudlik@hotmail.com</p>	<p>NH Association of Conservation Commissions Elaine Planchet 54 Portsmouth St. Concord, NH 03301 elaineplanchet@nhacc.org</p>
<p>Dr. Deborah Warner 135 Rock Strain Dr. Littleton, NH 03561 drwarner@ncia.net</p>	<p>North Country Council Mt. Eustis Commons Tara Bamford 262 Cottage St., Suite 246 Littleton, NH 03561 tbamford@nccouncil.org</p>
<p>Susan Schibanoff P.O. Box 59 Franconia, NH 03580 Susan.schibanoff@unh.edu</p>	<p>Dept of Resources and Economic Development Division of Parks and Recreation Eric Feldbaum 172 Pembroke Rd. Concord, NH 03301 Eric.feldbaum@dred.nh.gov</p>
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**Northern Pass Transmission LLC and Public Service Company of New Hampshire dba
Eversource Energy
SEC 2015-06
Distribution List**

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