

900 ELM STREET, 19TH FL. | P.O. BOX 3600 | MANCHESTER, NH 03105-3600

June 7, 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 Partially Assented-to Motion to Clarify The May 25, 2016 Order on Motion for Protective Order and Confidential Treatment.

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/scm - 2422781_1

Enclosure

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

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

No. 20 15-06

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 PARTIALLY ASSENTED-TO
MOTION TO CLARIFY
THE MAY 25, 2016 ORDER ON MOTION FOR PROTECTIVE ORDER AND
CONFIDENTIAL TREATMENT**

Counsel for the Public, by his attorneys, the Office of the Attorney General and Primmer Piper Eggleston & Cramer PC, respectfully requests that the Presiding Officer of the Site Evaluation Committee (“SEC”) clarify the May 25, 2016, Order on Motion for Protective Order and Confidential Treatment (the “Order”). Specifically, Counsel for the Public requests that the Presiding Officer clarify that the Order’s reference to “party” does not include Counsel for the Public and that the requirements listed on pages 12-15 of the Order is not applicable to Counsel for the Public. In support thereof, Counsel for the Public states as follows:

A. BACKGROUND.

On October 19, 2015, Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the “Applicants”), submitted a Joint Application for a Certificate of Site and Facility (the “Application”) to the SEC to construct a 192-mile transmission line to run through New Hampshire from the Canadian border in Pittsburg to Deerfield (the “Project”).

Contemporaneously with the Application, the Applicants filed an Unassented-To Motion for Protective Order and Confidential Treatment to protect certain information submitted with the Application.

The Presiding Officer issued the Order on May 25, 2016, which grants the protective order and confidential treatment on a limited basis. The Order also outlines a process whereby the “parties” can gain access to the Confidential Treatment for use during this proceeding.

B. LEGAL STANDARD.

RSA 91-A:4 and RSA 91-A:5 (the “Right to Know” law) govern the inspection of records in the possession of public bodies or agencies. The Office of the Attorney General is a “public agency” as defined in RSA 91-A:1-a(V) and is subject to the Right to Know law. Moreover, Counsel for the Public, represented by the Office for the Attorney General, is a statutory party to this proceeding tasked with “represent[ing] the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy.” RSA 162-H:9(I).

C. ARGUMENT.

Counsel for the Public asserts that it should not be required to execute confidentiality agreements with the Applicants in order to receive unredacted copies of the Confidential Information. As a statutory party and public agency, it has the same right that the SEC has to receive the entire filing submitted by the Applicants.¹ It is subject to the same disclosure requirements in RSA 91-A:4 and exemptions to those disclosure requirements in RSA 91-A:5. As has been the case in this proceeding and all other dockets before the SEC, Counsel for the Public has had unrestricted access to all docket filings and has not needed to rely on a confidentiality agreement to obtain that information. This is critical so that Counsel for the Public can perform thorough, detailed and prompt reviews of the proposed projects and meet his obligations under the statute to represent the public. Moreover, generally confidentiality

¹ Generally, Counsel for the Public does not receive Critical Energy Infrastructure Information, which is protected from disclosure under federal law.

agreements are not appropriate for Counsel for the Public to execute because they contain indemnification and liability terms that may violate RSA 9:19.²

Counsel for the Public respectfully requests that the Presiding Officer clarify the Order to indicate the procedures outlined in that order are not applicable to Counsel for the Public and that Counsel for the Public is not required to execute a confidentiality agreement in order to obtain the Confidential Information.

The Applicants' Position.

The Applicants assent to Counsel for the Public's request that it not be subject to the procedures set forth in the Presiding Officer's Order on Motion for Protective Order, but the Applicants have requested that we state their assent should not be interpreted as agreement with Counsel for the Public's argument in support of its request, or a waiver of any of the Applicants' rights.

The Following Parties Concur in this Motion:

Bethlehem Conservation Commission
Franconia Conservation Commission
Kris Pastoriza
Robert and Joanna Tuveson
Susan Schibanoff
Nonabutting Clarksville-Stewartstown Intervenor Group
David Schrier
Rodrigue and Tammy Beland
Eric, Elaine and Joshua Olsen
Conservation Law Foundation
Appalachian Mountain Club
Ammonoosuc Conservation Trust
Webster Family Intervenor Group
Southern Nonabutters Intervenor Group

The Following Parties Take No Position on this Motion:

City of Berlin

² RSA 9:19 provides that "No state official, ... shall ... make any contract or bargain, or in any way bind the state in excess of the amount voted by the legislature."

Respectfully submitted,

COUNSEL FOR THE PUBLIC,

By his attorneys,

Dated: June 7, 2016

By:

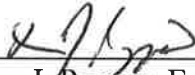


Peter C.L. Roth, Senior Assistant Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3679

PRIMMER PIPER EGGLESTON & CRAMER PC,

Dated: June 7, 2016

By:



Thomas J. Pappas, Esq. (N.H. Bar No. 4111)
P.O. Box 3600
Manchester, NH 03105-3600
(603) 626-3300
tpappas@primmer.com

-and-

Elijah D. Emerson, Esq. (N.H. Bar No. 19358)
PRIMMER PIPER EGGLESTON & CRAMER PC
P.O. Box 349
Littleton, NH 03561-0349
(603) 444-4008
eemerson@primmer.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION TO CLARIFY THE MAY 25, 2016 ORDER ON MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT has this day been forwarded via e-mail or mail to persons named on the Distribution List of this docket.

Dated: June 7, 2016

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