



For a thriving New England

CLF New Hampshire 27 North Main Street
Concord, NH 03301
P: 603.225.3060
F: 603.225.3059
www.clf.org

Via Hand-Delivery and Email

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

June 28, 2016

Re: 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, NH Site Evaluation Committee Docket No. 2015-06

Dear Ms. Monroe:

Please find enclosed for filing in the above-referenced matter an original and seven (7) copies of a Motion of the NGO Intervenors for Clarification of the June 23, 2016 Order on Pending Motions and Procedural Order.

Copies of this letter and the attached have this day been forwarded via email to all parties on the Distribution List.

Thank you for your attention. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

Melissa E. Birchard

cc: Distribution List

**THE 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 THE NGO INTERVENORS FOR CLARIFICATION
OF THE JUNE 23, 2016 ORDER ON PENDING MOTIONS
AND PROCEDURAL ORDER**

Conservation Law Foundation, Appalachian Mountain Club, the Sierra Club Chapter of New Hampshire, and Ammonoosuc Conservation Trust (collectively, the “NGO Intervenors”) submit this motion for clarification of the June 23, 2016 Order on Pending Motions and Procedural Order (“June 23 Procedural Order”) issued by the New Hampshire Site Evaluation Committee (“Committee”) in the above-captioned proceeding.¹ The NGO Intervenors state as follows:

1. On April 22, 2016, the Committee issued an Order and Temporary Procedural Schedule (“April 22 Procedural Order”) granting Counsel for the Public two rounds of data requests and all other intervenors one round of data requests. On May 2, 2016, the Society for the Protection of New Hampshire Forests (“SPNHF”) filed a motion to clarify the April 22 Procedural Order (“SPNHF Motion”). SPNHF sought clarification as to whether intervenors other than Counsel for the Public could receive the opportunity to propound a second round of

¹ In accordance with the Committee’s directives, this motion is submitted through the NGO Intervenors’ designated representative.

data requests. Following SPNHF's motion, various intervenors including the NGO Intervenors filed notices of joinder to the SPNHF Motion, similarly seeking approval for two rounds of data requests. *See* NGO Intervenors Notice of Joinder, May 4, 2016.

2. The Committee subsequently issued the June 23 Procedural Order. In response to the SPNHF Motion, that order granted a second round of data requests to SPNHF, due by July 8, 2016, limiting those data requests to issues raised in confidential documents. In a footnote, that order suggested that although the NGO Intervenors had filed joinder with SPNHF, they had not specifically requested similar relief applicable to their own organizations.

3. The NGO Intervenors move for clarification of the June 23 Procedural Order. It was the NGO Intervenors' intent and belief that through their May 4 Notice of Joinder, they, like SPNHF, also specifically requested a second round of data requests. To that end, the NGO Intervenors' Notice of Joinder argued that "the additional set of data requests is necessary because the intervenors still have not received unredacted copies of certain reports" and "[w]ithout copies of those reports, the intervenors are severely prejudiced in their ability to propound data requests on the subjects of those reports." NGO Intervenors Notice of Joinder at 1. These arguments, referring to plural intervenors, were intended to include, not exclude, the NGO Intervenors. At the May 19, 2016 Motions Hearing, the NGO Intervenors also sought a ruling as to whether there would be two rounds of data requests for "the parties," intending to include, not exclude, the NGO Intervenors. *See* Transcript at 181-183.²

² *See also id.* 183:11-18, comments of Commissioner Bailey ("I think what Ms. [] Birchard was suggesting is, if she knew there was going to be a second round [of data requests] or not, then she could ask data requests tomorrow and keep within the schedule.").

4. This motion therefore respectfully requests that the Committee grant the NGO Intervenors an opportunity to propound data requests addressing the confidential information.³ In the June 23 Procedural Order, the Committee found that the Applicant's request for confidential treatment deprived SPNHF of an opportunity "to review documentation that addresses issues that are at the center of the Subcommittee's inquiry - the effect of the Project on economy of the region and state, natural environment and historic sites." See June 23 Procedural Order at 6. Likewise, the NGO Intervenors would similarly be deprived absent the opportunity to propound data requests regarding the confidential information. For this reason, and the reasons stated in their May 4 Notice of Joinder, the NGO Intervenors seek an opportunity to propound data requests regarding the confidential information.⁴ In light of the fact that the information remains confidential as of the filing of this motion, the NGO Intervenors would ask that the Committee grant a reasonable amount of time to prepare data requests on the information after that information becomes available.

5. The following parties assent or do not assent to this motion. Responses have not been received from parties not listed.

Assent: Applicants; Counsel for the Public; City of Concord; Society for the Protection of New Hampshire Forests; Nancy Martland; Kris Pastoriza, Easton Conservation Commission; Mark Orzeck; Lara Saffo; Stewartstown and Clarksville Nonabutters Group; Towns of Littleton, Woodstock, Bridgewater, New Hampton, Deerfield and Ashland W & S; Town of Plymouth.

³ Although the NGO Intervenors refer to these materials as confidential for purposes of this filing, in doing so they do not concede that confidential treatment is appropriate.

⁴ The NGO intervenors note that the June 23 Procedural Order affords all intervenors the opportunity to propound discovery requests on information previously unavailable due to the Applicant's requests for waiver. It is unclear to the NGO Intervenors why the Committee has not similarly afforded all intervenors willing to sign a confidentiality agreement the same opportunity to propound discovery requests regarding the information previously unavailable due to asserted confidentiality.

Take no position: City of Berlin; City of Franklin

WHEREFORE, for the reasons stated above and in their May 4 filing in this proceeding, the NGO Intervenors respectfully request that the Site Evaluation Committee clarify the June 23 Procedural Order, granting the NGO Intervenors' request for an opportunity to propound data requests on the confidential information.

Respectfully submitted,



Melissa E. Birchard
Conservation Law Foundation
27 N. Main Street
Concord, NH 03301
(603) 225-3060 x3016
Fax (603) 225-3059
mbirchard@clf.org

June 28, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has on this 28th day of June 2016 been sent by email to the service list in Docket No. 2015-06.



Melissa E. Birchard
Conservation Law Foundation