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July 11, 2016

Via Electronic Mail/Hand Delivery

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:

Enclosed for filing in the above-captioned docket, please find an original and one copy of an Objection to the Motion for Rehearing by the Deerfield Abutters regarding the June 23, 2016 Order on Applicants' Request for Partial Waivers under the Newly Adopted SEC Rules.

Please contact me directly should you have any questions.

Sincerely,

Rebecca Walkey for

Thomas B. Getz

TBG:slb

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**

**OBJECTION TO MOTION FOR REHEARING BY DEERFIELD ABUTTER
INTERVENOR GROUP REGARDING THE JUNE 23, 2016 ORDER
ON APPLICANTS' REQUEST FOR PARTIAL WAIVERS**

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 Motion for Rehearing filed by the Deerfield Abutter Intervenor Group (“Deerfield Abutter Group”).

1. On June 23, 2016, the Site Evaluation Committee (“SEC” or, in this case, “Subcommittee”) issued its Order on Applicant’s Request for Partial Waivers Under the Newly Adopted SEC Rules (“Partial Waivers Order”).

2. Specifically, the Partial Waivers Order conditionally granted the Applicants’ request for a waiver of the provisions of Site 301.03(c)(3) requiring the Applicants to identify residences, industrial buildings, other structures and improvements located on abutting properties beyond ¼ mile of the transmission line. Order at p. 21.¹ (The Applicants’ waiver request was denied with respect to properties abutting the substations, transitions stations, and converter terminal. *Id.*) The Partial Waivers Order also granted the Applicants’ request for a waiver of the provisions of Site 301.03(c)(4) requiring the Applicants to identify wetlands and surface waters beyond ¼ mile of the Project. Order at pp. 21-22.

¹ The Partial Waivers Order required the Applicants to submit tax cards and tax maps for the properties abutting the transmission line. Those documents have been submitted.

3. On or about June 30, 2016, the Deerfield Abutter Group filed its Motion for Rehearing of the Partial Waivers Order with respect to these provisions (“Motion”). *See* Motion at p. 1.

4. The Motion should be denied because it fails to meet the requirements for a motion for rehearing set forth in Site 202.29. Even considering the Deerfield Abutter Group’s arguments, they fail to demonstrate any good cause for the Subcommittee to grant the Motion. *See O’Loughlin v. NH Pers. Comm.*, 117 N.H. 999, 1004 (1977); *Appeal of Gas Service, Inc.*, 121 N.H. 797, 801 (1981) (a rehearing may be denied where “good reason” or “good cause” has not been demonstrated).

A. The Deerfield Abutter Group’s Motion Fails to Meet the Requirements for Rehearing in Site 202.29.

5. A motion for rehearing must:

- (1) Identify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered;
- (2) Describe how each error causes the committee’s order or decision to be unlawful, unjust or unreasonable;
- (3) State concisely the factual findings, reasoning or legal conclusion proposed by the moving party; and
- (4) Include any argument or memorandum of law the moving party wishes to file.

Site 202.29.

6. The Deerfield Abutter Group’s Motion does not identify specific errors of fact, reasoning or law in the Partial Waivers Order to be reconsidered, nor does it describe how the claimed error caused the Subcommittee’s decision “to be unlawful, unjust or unreasonable.” Site 202.29(d)(1)-(2). Furthermore, they do not direct attention to matters that have been overlooked

or mistakenly conceived; they simply ask for a different result. Accordingly, the Motion should be denied.

B. The Deerfield Abutter Group Do Not Demonstrate Any Good Reason for the SEC to Grant Their Motion with Respect to Site 301.03(c)(3) and (4).

7. Even considering the arguments raised by the Deerfield Abutter Group, the Motion should be denied. The Subcommittee properly applied the waiver standard to the Applicants' request.

8. The standard for granting a waiver is whether the waiver (1) serves the public interest; and (2) will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee. Site 302.05(a); Order at p.18. "[I]n determining the public interest, the Subcommittee shall waive a rule" where "(i) compliance with the rule would be onerous. . . ; or (ii) the purpose of the rule would be satisfied by an alternative method proposed." Order at p. 18, citing Site 302.05(b).

9. The Committee applied this standard in considering the Applicants' Motion and the numerous objections filed. It found that requiring the Applicants "to provide in excess of nine hundred additional maps" to identify structures that extend beyond ¼ mile from the 192-mile transmission line to satisfy Site 301.03(c)(3) is "unreasonably burdensome" and therefore, partial waiver is in the public interest. Order at pp. 20-21. It further concluded that granting the waiver would not "disrupt the orderly and efficient resolution of matters before the Subcommittee." *Id.* at p.21.

10. The arguments raised by the Deerfield Abutter Group in their Motion do not change the analysis of the waiver standard. Their request that the Committee "require the Applicant to review all the tax cards along the ROW to ensure that all properties are counted and mapped correctly" (Motion at p. 3) is not a challenge to the Applicants' request for a partial

waiver for mapping structures beyond the approximate ¼ mile distance from the Project, but a request for additional mapping within the ROW. Whether particular structures were properly shown on the Project Maps is a question the Intervenor might raise if relevant to an issue properly raised in the proceeding, but it has no bearing on whether structures beyond ¼ mile of the transmission line should be mapped. This argument has no relevance to the waiver issues and is not the proper basis for a motion for rehearing.²

11. Likewise, with respect to wetlands and surface waters, the Subcommittee concluded “[i]t is in the public interest to waive Site 301.03(c)(4), as it applies to the identification of wetlands and surface waters beyond ¼ mile of the Project.” Order at p. 22. In reaching its decision, the Subcommittee cited the following factors: (a) construction of the Project would be localized within a “strictly defined right-of-way;” (b) best management practices would be used during construction; (c) “[i]t is unlikely that the Project will have any impact on surface waters and wetlands beyond ¼ mile of the Project;” (d) NH DES does not need the information subject to the waiver request to complete its review; and (e) “it will be extremely onerous for the Applicant[s] to identify each and every wetland and surface water located on abutting properties that extend beyond ¼ mile of the Project.” *Id.*

12. While the Deerfield Abutter Group’s Motion generally takes issue with the conclusion the impact on surface waters or wetlands will be limited to within ¼ mile of the Project, it does not challenge the other factors or address the onerous impact of denying the waiver. The Motion fails to demonstrate any good cause for a rehearing of the Partial Waivers Order.

² It is not obvious from the Motion that any structure is in fact missing. The cabin identified in the Motion is discussed at length in the Historical Resources Assessment Report, Appendix 18, Book 1. It is the last Deerfield historic property analyzed (DEER 138). The second structure mentioned is reported by the Intervenor in the Motion to be beyond ¼ mile of the transmission line, so that by definition it would not be on the Project Map.

C. The Deerfield Abutter Group's Attempt to Raise New Issues Should be Rejected.

13. Members of the Deerfield Abutter Group filed their Objections to the Applicant's Request for Partial Waivers on or about April 4 and April 7, 2016. Motion at p. 1. The Objection of the Proposed Deerfield Abutting Property Owners Intervenors focused solely on Site 301.03(c)(5) relating to the identification of historic, cultural and other resources. The Objections of Jo Anne Bradbury and the Abutting Property Owners from Ashland to Deerfield generally argued the public interest would not be served by granting the waivers. The specific issues the Deerfield Abutter Group now raise were not included in their respective objections.

14. Moreover, by their own admission, the Deerfield Abutter Group participated in meetings with the SEC in April and May 2016 where the issues regarding the Applicants' request for partial waivers was discussed. Motion at 1. While they claim the SEC did not "open[] the floor for further discussion from the intervenors" at the May 19th meeting, the Deerfield Abutter Group notably did not move to supplement their Objections with additional information in the following weeks. Instead, they waited for a ruling on the Applicants' Motion for Partial Waivers to raise specific challenges regarding the adequacy of the Applicants' identification and mapping of structures and wetlands. Their Motion for Rehearing therefore is an untimely attempt to supplement their Objections that should be denied. *See O'Loughlin*, 117 N.H. at 1004 ("plaintiff failed to explain why the 'new evidence' he wished to produce at a rehearing could not have been presented at the original hearing.").

15. Finally, the Subcommittee's Partial Waivers Order thoroughly considered the administrative rules at issue and properly concluded that the information submitted by the Applicants, subject to some other conditions, was sufficient and that denying the requested waivers for Site 301.03(c)(3) and (4) would be unreasonably burdensome and unnecessary for

efficient resolution of the matters before it. Order at pp. 20-22. Accordingly, the Motion for Rehearing should be denied.

WHEREFORE, the Applicants respectfully request that the Subcommittee:

- A. Deny the Deerfield Abutter Group's Motion for Rehearing; and
- B. Grant such further relief as is deemed just and appropriate.

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: July 11, 2016

By: Rebecca Walkley for

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Certificate of Service

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

Rebecca Walkley for
Thomas B. Getz