

City of Concord

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July 22, 2016

Eileen Fox, Clerk
New Hampshire Supreme Court
One Charles Doe Drive
Concord, NH 03301

RE: Appeal of the City of Concord
Docket No. 2016 - _____

Dear Clerk Fox:

Enclosed please find an original and 8 copies of the City of Concord's Appeal from Decision of the New Hampshire Site Evaluation Committee under Supreme Court Rule 10 and RSA 541:6 and the accompanying appendix. Please feel free to contact me with any questions 225-8505.

Sincerely,

Danielle L. Pacik, Esq.
Deputy City Solicitor

DLP/vd
Enclosures

cc: Attorney General Joseph Foster
Senior Assistant Attorney General Peter Roth
Thomas Pappas, Esq.
Barry Needleman, Esq.
Thomas Getz, Esq.
Site Evaluation Committee
SEC Distribution List (by email)

**THE STATE OF NEW HAMPSHIRE
SUPREME COURT**

NO. 2016-_____

APPEAL OF THE CITY OF CONCORD

**APPEAL FROM DECISION OF THE NEW HAMPSHIRE SITE EVALUATION
COMMITTEE UNDER SUPREME COURT RULE 10 AND RSA 541:6**

CITY OF CONCORD

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A. PARTIES AND COUNSEL*

Appellant: City of Concord 41 Green Street Concord, NH 03301	Counsel of Record for Appellant: Danielle L. Pacik, Deputy City Solicitor NH Bar No. 14924 City of Concord 41 Green Street Concord, NH 03301 (603) 225-8505
Appellees: Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy	Counsel of Record for Appellees: Barry Needleman, Esquire Adam Dumville, Esquire Viggo Fish, Esquire McLane, Middleton, Professional Association Thomas B. Getz 11 South Main St., Suite 500 Concord, NH 03301 Jeremy T. Walker, Esquire Rebecca S. Walkley, Esquire McLane, Middleton, Professional Association 900 Elm St., P.O. Box 326 Manchester, NH 03105 George Dana Bisbee, Esquire Devine Millimet 111 Amherst St. Manchester, NH 03101 Christopher J. Allwarden, Esquire Senior Counsel Public Service Company of New Hampshire d/b/a/ Eversource Energy 780 North Commercial St. Manchester, NH 03101 Marvin Paul Bellis, Esquire Senior Counsel Eversource Energy 107 Selden Street Berlin, Connecticut 06037

	<p>Elizabeth Maldonado, Esquire Assistant General Counsel Northern Pass Transmission LLC 107 Selden Street Berlin, CT 06085</p>
<p>Counsel for the Public:</p> <p>Peter C.L. Roth Senior Assistant Attorney General NH Department of Justice 33 Capitol St. Concord, NH 03301</p>	<p>Counsel of Record for the Counsel for the Public:</p> <p>Thomas Pappas, Esquire Eli Emerson, Esquire Primmer Piper Eggleston & Cramer 900 Elm Street Manchester, NH 03101</p>
<p>Municipal Group 1 North:</p> <p>Pittsburg;</p> <p>Clarksville;</p> <p>Stewartstown;</p> <p>Colebrook; and</p> <p>Coos County Commissioner Rick Samson</p>	<p>Spokesperson:</p> <p>Steve Ellis townofficepittsburg@gmail.com</p>
<p>Municipal Group 2:</p> <p>Sugar Hill;</p> <p>Franconia (Board of Selectmen, Planning Board, and Conservation Commission);</p> <p>Easton (Board of Selectmen, Planning Board, and Conservation Commission);</p> <p>Woodstock; and</p> <p>Plymouth</p>	<p>Spokesperson:</p> <p>C. Christine Fillmore, Esquire cfillmore@townandcitylaw.com</p>

<p>Municipal Group 3 South:</p> <p>Canterbury;</p> <p>Concord;</p> <p>Pembroke (Board of Selectmen, and Conservation Commission); and</p> <p>Deerfield (Board of Selectmen, Planning Board, and Conservation Commission)</p>	<p>Spokesperson:</p> <p>Danielle Pacik, Esquire dpacik@concordnh.gov</p>
<p>Municipal Group 1 South:</p> <p>Northumberland;</p> <p>Whitefield (Board of Selectmen and Planning Board);</p> <p>Dalton (Board of selectmen and Conservation Commission);</p> <p>Bethlehem (Board of Selectman, Planning Board and Conservation Commission); and</p> <p>Littleton</p>	<p>Spokesperson:</p> <p>Steven Whitley, Esquire steven@mitchellmunigroup.com</p>
<p>Municipal Group 3 North:</p> <p>Holderness (Board of Selectmen and Conservation);</p> <p>Ashland (Board of Selectmen, Conservation Commission, and Water & Sewer Department);</p> <p>Bridgewater;</p> <p>New Hampton; and</p> <p>Bristol</p>	<p>Spokesperson:</p> <p>Steven Whitley, Esquire steven@mitchellmunigroup.com</p>

<p>Kevin Spencer;</p> <p>Rodrigue J. and Tammy L. Beland;</p> <p>Susan E. Percy for Percy Summer Club;</p> <p>Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC; and</p> <p>Robert Heath</p>	
<p>Whitefield, Dalton, and Bethlehem, Abutting Property Intervenors (overhead portion of the Project):</p> <p>Elmer C. Lupton and Claire C. Lupton;</p> <p>Mary Boone Wellington;</p> <p>Bruce and Sondra Brekke;</p> <p>James and Judy Ramsdell;</p> <p>Charles and Cynthia Hatfield;</p> <p>Donald and Betty Gooden;</p> <p>Tim and Brigitte White; and</p> <p>David Van Houten</p>	<p>Spokesperson:</p> <p>David Van Houten davidgvanhouten@gmail.com</p>
<p>Non-Abutting Property Owners: Clarksville and Stewartstown:</p> <p>Robert Martin;</p> <p>Roderick C. Moore, Jr.;</p> <p>Joseph John Dunlap;</p> <p>Shawn Patrick Brady;</p>	<p>Spokesperson:</p> <p>Alan Robert Baker, Esquire abobbaker@aol.com</p>

<p>Christopher Thompson;</p> <p>E. Martin Kaufman;</p> <p>Bradley J. Thompson;</p> <p>John Petrofsky on behalf of 44 residents of Stewartstown; and</p> <p>East Colebrook (Dixville Notch-Harvey Swell Location residents)</p>	
<p>Non-Abutting Property Owners: Stark, Lancaster, Whitefield, Dalton, and Bethlehem:</p> <p>Mark W. Orzeck and Susan Orzeck;</p> <p>John W. Davidge for Prospect Farm-Lancaster, LLC;</p> <p>Linda Upham-Bornstein;</p> <p>Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust;</p> <p>Richard M. McGinnis;</p> <p>Frederic P. Fitts;</p> <p>Gerald and Vivian Roy;</p> <p>Edward A. Piatek;</p> <p>Frank and Kate Lombardi;</p> <p>Marsha J. Lombardi;</p> <p>Wendy Doran;</p> <p>Alexandra M. Dannis and James G. Dannis; and</p> <p>Andrew D. Dodge</p>	<p>Spokesperson:</p> <p>Rebecca More rsmore47@gmail.com</p>

<p>Abutting Property Owners: Bethlehem – Plymouth (underground portion of the Project):</p> <p>Nigel Manley and Judy Ratzel; Russel and Lydia Cumbee; Walter Palmer and Kathryn Ting; G. Peter and Mary S. Grote; Paul and Dana O’Hara; Virginia Jeffreys; Carol Dwyer; Gregory and Lucille Wolf; Susan Schibanoff; Ken and Linda Ford; Campbell McLaren, M.D.; Eric and Barbara Meyer; Robert W. Thibault; Dennis Ford; Carl Lakes and Barbara Lakes; Bruce D. Ahern; and Frank Pinter</p>	<p>Spokesperson:</p> <p>Walter Palmer waltpalmer1@gmail.com</p>
<p>Non-Abutting Property Owners: Bethlehem – Plymouth (underground portion of the Project):</p> <p>Lee Sullivan and Stephen Buzzell;</p>	<p>Spokesperson:</p> <p>Lee Sullivan & Stephen Buzzell leesullivan@stevebuzzell.com</p>

<p>Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, Matthew Steele, individually and as owners of 41 Dyke Road, LLC.; and</p> <p>James Page</p>	<p>Timothy and Rebecca Burbank, Edward Cenerizio, Deborah Corey and Matthew Steele northpack99@yahoo.com</p> <p>James H Page Jr. jpage@metrocast.net</p>
<p>Abutting Property Owners: Ashland – Concord (overhead portion of the Project):</p> <p>Carol Currier;</p> <p>Mary A Lee;</p> <p>Craig and Corinne Pullen;</p> <p>McKenna’s Purchase Unit Owners Association;</p> <p>Taras and Marta Kucman; Kelly Normandeau; and</p> <p>Laura M. Bonk;</p>	<p>Spokesperson:</p> <p>Michelle Kleindienst kleindienstm@gmail.com</p>
<p>Phillip H. Bilodeau and Joan C. Bilodeau</p>	<p>Spokesperson:</p> <p>Scott Hogan, Esquire hoganlaw@comcast.net</p>
<p>Non-Abutting Property Owners: Ashland –Deerfield (overhead portion of the Project):</p> <p>Joanna and Robert Tuveson;</p>	<p>Spokesperson:</p> <p>Charlotte Crane, Esquire ccrane@law.northwestern.edu</p>

<p>Nina and Elisha Gray;</p> <p>Rodney Felgate and Laura Felgate;</p> <p>The Webster Family Group;</p> <p>Lawrence Phillips and Maxine Phillips;</p> <p>Lisa Wolford and Pamela Hanglin;</p> <p>F. Maureen Quinn;</p> <p>Madelyn and Thomas Foulkes; and</p> <p>Jeanne M. Menard as a managing member of Pawtuckaway View, LLC</p>	
<p>Abutting Property Owners: Deerfield:</p> <p>Erick B. Berglund Jr. and Kathleen A. Berglund;</p> <p>Rebecca Hutchinson;</p> <p>Torin Judd and Brian Judd;</p> <p>Jeanne M. Menard, as a General Partner of the Menard Forest Family Limited Partnership;</p> <p>Jeanne M. Menard for Peter F. Menard and Anne K. Burnett;</p> <p>Kevin and Lisa Cini;</p> <p>Bruce A. Adami and Robert J. Cote; Eric and Sandra Lahr; and</p> <p>Jo Anne Bradbury</p>	<p>Spokesperson:</p> <p>Robert Cote bob.cote@yahoo.com</p>

<p>Non-Governmental Organizations:</p> <p>Society for the Protection of New Hampshire Forests</p>	<p>Spokesperson:</p> <p>Amy Manzelli, Esquire manzelli@nhlandlaw.com</p>
<p>Non-Governmental Organizations:</p> <p>Sugar Hill Historical Museum;</p> <p>New Hampshire Preservation Alliance and National Trust for Historic Preservation; and</p> <p>North Country Scenic Byways Council</p>	<p>Spokesperson:</p> <p>Sharee Williamson, Esquire SWilliamson@savingplaces.org</p>
<p>Non-Governmental Organizations:</p> <p>Appalachian Mountain Club; Conservation Law Foundation;</p> <p>Sierra Club Chapter of New Hampshire; and</p> <p>Ammonoosuc Conservation Trust</p>	<p>Spokesperson:</p> <p>Melissa Birchard, Esquire mbirchard@clf.org</p>
<p>Businesses and Organizations with Economic Interests:</p> <p>Cate Street Capital, Inc.;</p> <p>International Brotherhood of Electrical Workers;</p> <p>Coos County Business and Employers Group;</p> <p>North Country Chamber of Commerce</p> <p>Dixville Capital, LLC and</p> <p>Balsams Resort Holdings, LLC</p>	<p>Spokesperson:</p> <p>Alan Raff, Esquire araff@primarylegalsolutions.com</p>

Businesses and Organizations with Economic Interests: NEPGA	Spokesperson: Carol Holahan, Esquire cholahan@nepga.org
Businesses and Organizations with Economic Interests: Wagner Forest Management	Spokesperson: Mike Novello novello@wagnerforest.com
Pemigewasset River Local Advisory Committee	Spokesperson: Max Stamp hmstamp@metrocast.net

* All parties in the underlying matter are served electronically via a distribution list which contains all intervenors and other interested parties. A copy of the most current distribution list is included in the Appendix. The intervenors have also been grouped, and each has been required to identify a “spokesperson” for purposes of receiving data requests and other communications. The individuals identified as “spokesperson” is based on the most current list provided. A copy of the Spokesperson Service List is also included in the Appendix.

B. RELEVANT DOCUMENTS SUBJECT TO APPEAL

See Appendix.

C. QUESTIONS PRESENTED FOR REVIEW

1. Whether the SEC’s decision is unlawful and unreasonable in denying the City of Concord’s (“Concord”) request to be allowed to participate in the SEC administrative proceedings as full a party for purposes of discovery, technical sessions, filing pleadings and cross examination.

2. Whether the SEC’s decision is unlawful or unreasonable in denying Concord’s alternative request that it be allowed to: (1) participate in technical sessions to address issues of specific concern that are not addressed by the group’s spokesperson or by another party’s questions; (2) conduct cross-examination during hearings to address issues of specific concern that are not addressed by the group’s spokesperson or by another party’s cross-examination; and (3) file supplemental pleadings on relevant issues of specific concern that are not adequately addressed in the group’s consolidated pleading.

D. RELEVANT STATUTORY PROVISIONS

RSA 162-H:16 - Findings and Certificate Issuance.

I. The committee shall incorporate in any certificate such terms and conditions as may be specified to the committee by any of the state agencies having permitting or other regulatory authority, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility; provided, however, the committee shall not issue any certificate under this chapter if any of the state agencies denies authorization for the proposed activity over which it has permitting or other regulatory authority. The denial of any such authorization shall be based on the record and explained in reasonable detail by the denying agency.

II. Any certificate issued by the site evaluation committee shall be based on the record. The decision to issue a certificate in its final form or to deny an application once it has been accepted shall be made by a majority of the full membership. A certificate shall be conclusive on all questions of siting, land use, air and water quality.

III. The committee may consult with interested regional agencies and agencies of border states in the consideration of certificates.

IV. After due consideration of all relevant information regarding the potential siting or routes of a proposed energy facility, including potential significant impacts and benefits, the site evaluation committee shall determine if issuance of a certificate will serve the objectives of this chapter. In order to issue a certificate, the committee shall find that:

(a) The applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.

(b) The site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.

(c) The site and facility will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety.

(d) [Repealed.]

(e) Issuance of a certificate will serve the public interest.

V. [Repealed.]

VI. A certificate of site and facility may contain such reasonable terms and conditions, including but not limited to the authority to require bonding, as the committee deems necessary and may provide for such reasonable monitoring procedures as may be necessary. Such certificates, when issued, shall be final and subject only to judicial review.

VII. The committee may condition the certificate upon the results of required federal and state agency studies whose study period exceeds the application period.

RSA 541-A:32 Intervention.

I. The presiding officer shall grant one or more petitions for intervention if:

(a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least 3 days before the hearing;

(b) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

II. The presiding officer may grant one or more petitions for intervention at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.

III. If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Such conditions may include, but are not limited to:

(a) Limitation of the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition.

(b) Limitation of the intervenor's use of cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings.

(c) Requiring 2 or more intervenors to combine their presentations of evidence and argument, cross-examination, and other participation in the proceedings.

IV. Limitations imposed in accordance with paragraph III shall not be so extensive as to prevent the intervenor from protecting the interest which formed the basis of the intervention.

V. The presiding officer shall render an order granting or denying each petition for intervention, specifying any conditions and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification.

N.H. Admin. Rule, Site Rule 202.11 Intervention.

(a) Persons seeking to intervene in a proceeding shall file petitions with the committee or subcommittee, as applicable, with copies served on all parties identified in the committee or subcommittee notice of hearing or prehearing conference.

(b) The presiding officer, or any hearing officer designated by the presiding officer if the petition is undisputed, shall grant a petition to intervene if:

(1) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the order of notice of the hearing or prehearing conference, not less than 3 days before the hearing or prehearing conference;

(2) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests might be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law, including a state agency pursuant to RSA 162-H:7-a, VI; and

- (3) The presiding officer or hearing officer, as applicable, determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.
- (c) The presiding officer, or any hearing officer designated by the presiding officer if the petition is undisputed, shall grant one or more late-filed petitions to intervene pursuant to RSA 541-A:32, II, upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the hearings.
- (d) The presiding officer, or any hearing officer designated by the presiding officer if the petition is undisputed, shall impose conditions upon an intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time, including the following conditions, if such conditions promote the efficient and orderly process of the proceeding
- (1) Limitation of such intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
 - (2) Limitation of such intervenor's use of cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings; and
 - (3) Requiring 2 or more such intervenors to combine their presentations of evidence and argument, cross-examination and other participation in the proceedings.
- (e) Limitations imposed in accordance with paragraph (d) shall not be so extensive as to prevent such an intervenor from protecting the interest that formed the basis of the intervention.
- (f) Any party aggrieved by a decision on a petition to intervene may within 10 days request that the decision be reviewed by the committee or subcommittee, as applicable.

E. PROVISIONS OF DOCUMENTS

Not Applicable.

F. STATEMENT OF THE CASE

This action arises from Concord's intervention on the 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 the Construction of a New High Voltage Transmission Line in New Hampshire. On March 18, 2016, the presiding officer of the Site Evaluation Committee ("SEC") issued an order that grouped Concord's participation with other municipalities and materially limited Concord's intervention in the matter. Order on Petitions to Intervene (March 18, 2016) at 8. The Order consolidated Concord in Municipal Group 3 which consisted of Holderness, Ashland, Bridgewater, New Hampton, Bristol, Canterbury, Pembroke and Deerfield. The Order required Concord to participate in the proceedings with the other

members of Municipal Group 3, and to “designate a single spokesperson for the purpose of filing pleadings, conducting discovery, and for examining witnesses at evidentiary hearings.”

Concord subsequently requested the SEC to review and modify the order of the presiding officer. Concord explained that it needs to independently file pleadings and cross-examine witnesses in order to adequately protect its unique and specific interests. On April 12, 2016, the SEC held a hearing on the request for review. On May 20, 2016, the SEC issued an order denying Concord’s request to be provided separate and independent intervenor status. The SEC, however, reconfigured Municipal Group 3. Concord was placed in Municipal Group 3 (South), which is comprised of Canterbury, Concord, Pembroke (Board of Selectmen and Conservation Commission) and Deerfield (Board of Selectmen, Planning Board and Conservation Commission).

Concord filed a timely motion for rehearing requesting the SEC to allow Concord to participate in the proceedings as an independent party for purposes of discovery, technical sessions, filing pleadings and cross examination. In the alternative, Concord requested the SEC amend the intervention order to allow it to: (1) participate in technical sessions to address issues of specific concern that are not addressed by the group’s spokesperson or by another party’s questions; (2) conduct cross-examination during hearings to address issues of specific concern that are not addressed by the group’s spokesperson or by another party’s cross-examination; and (3) file supplemental pleadings on relevant issues of specific concern that are not adequately addressed in the group’s consolidated pleading. On June 22, 2016, the SEC voted to deny Concord’s rehearing motion. On July 21, 2016, the SEC issued a written order confirming the denial of Concord’s rehearing motion.

G. JURISDICTIONAL BASIS FOR APPEAL

RSA 541:6.

H. REASONS FOR ACCEPTANCE OF APPEAL

The proposed project has significant and unique impacts on Concord, and it is imperative that Concord have an adequate opportunity to fully address those issues in its pleadings, during the SEC technical sessions and during the adjudicative hearing. Concord's unique interests in the SEC proceedings should warrant it to proceed separately from the other municipalities and their boards.

The manner in which Concord has been grouped with other municipalities violates the requirements under RSA 541-A:32, IV and Site Rule 202.11(e) which provide that to the extent that a presiding officer imposes conditions on intervention, such conditions shall not be "so extensive as to prevent the intervenor from protecting the interest which formed the basis of the intervention."

As discussed in detail in Concord's motion for review of order on intervention, Concord has a significant interest in the proceeding because the proposed project impacts the orderly development of the region, as well as because Concord owns several parcels of property which will be impacted by the proposed route. The following provides an overview of some of the unique issues to Concord:

(a) Population Density and Length of Route: Concord is the capital of New Hampshire, and has a population of 42,695, which equates to 36% of the entire population along the proposed route using data from the 2010 United States Census. There are 8.1 miles of overhead lines proposed for Concord, which is approximately 6% of the proposed 132 miles of overhead route. There are only four municipalities that will be subjected to a greater distance of overhead

lines in their communities (Dixville, Franklin, Whitefield and Stark). Concord needs the opportunity to independently address the impact of the project's construction and operations on its population.

(b) Abutting Neighborhoods: The proposed route abuts a number of heavily populated neighborhoods in Concord, including McKenna's Purchase which has 148 condominium units. Some of the units at McKenna's Purchase are immediately adjacent to the proposed route. Concord needs the opportunity to explore and present evidence on the impact on properties, including visual impacts, property values and resulting noise from construction and operation of the project. For example, with respect to McKenna's Purchase, the proposal includes the relocation of a large berm that is used to reduce noise from nearby commercial properties (such as audible backup alarms on forklifts). Concord needs to ensure that the volume of noise will not increase due to the relocation of the berm.

(c) Height of Structures: According to the Northern Pass website, the most common height of the existing poles in Concord are 43 feet. The average height of the relocated structures will be 88 feet, or twice the existing average height. Moreover, the application shows 120 structures over 90 feet in Concord, and 60 of those structures are proposed to be between 100-125 feet. The Concord route runs through residential, commercial and industrial zones. According to a September 25, 2012 study by the Appalachian Mountain Club, "Concord experiences the highest exposure with over 9000 acres having visibility of at least one tower." Concord needs to address the specific scenic and the significant visual impact of those structures, as well as how it conflicts with Concord's municipal goals. Concord has spent significant resources on projects throughout the City to bury power lines, and under its subdivision

regulations, all new subdivisions are required to bury power lines. Concord needs to address the feasibility and cost for Northern Pass, LLC to bury the lines in all, or portions, of Concord.

(d) Impact of Structures in Gateway Performance District: Two of the proposed structures will be 125 feet, and are located near Loudon Road which is Concord's Gateway Performance District that provides an entrance into the easterly portion of Concord. The Department of Energy has stated that the proposed structures at this specific location will have an aesthetic/visual impact which increases current conditions in this area from "moderate" to "severe", which means that "the visual change would be very large, and in sensitive settings is likely considered unreasonably adverse by a casual observer." This severe impact conflicts with the goals of Concord's Zoning Ordinance. The Gateway Performance District was established to provide for well designed, large scale commercial developments that "are expected to adhere to high standards for appearance in order to ensure that the gateways to the City are attractive and functional. Buffering and screening for adjacent neighborhoods are of concern for development at the edges of this District." The Gateway Performance District is a growth corridor that is actively developed, and has some of Concord's highest valued properties due to its desirable location. Concord needs to adequately address the impacts of the proposed structures in this area.

(e) Impacts of Structures at Turtletown Pond: The project also proposes the construction of structures at Turtletown Pond that the Department of Energy has stated will have an aesthetic/visual impact which increases current conditions from "moderate" to "strong." Concord needs to adequately address these impacts, and also to fully evaluate alternative options such as burial in this location to avoid scenic impacts.

(f) Karner Blue Butterflies and Concord Pine Barrens: The proposed route bisects a lot that is owned in fee by Concord (Map 111, Block B1, Lot 4) that is believed to provide a habitat for the Karner Blue butterfly, which is listed as a federally endangered species and has been reintroduced in Concord through the release of captive reared butterflies in the Pine Barrens. Concord needs the opportunity to explore the potential impacts on the Karner Blue butterflies on its property, as well as other areas of Concord.

(g) Ownership Interests: Similar to the Society for the Protection of New Hampshire Forests, which was allowed to participate as a full party in the proceedings, Concord has a direct ownership interest in properties affected by the Project. The proposed route crosses through lots that Concord owns in fee simple, as well as lots on which Concord owns and manages conservation easements. Concord also owns and manages conservation easements on lots that are located immediately adjacent to the proposed route. Concord needs to address issues that impact the property it owns and manages.

The foregoing issues demonstrate that Concord is significantly impacted by the project and needs to have an opportunity to address the impacts that are unique to its municipality. The legislature intended for municipalities to have an opportunity to provide their views relative to the site and facility. RSA 162-H:16 states that the SEC may only issue a certificate to the extent that it finds that “[t]he site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.” It is clear from this requirement that municipalities have an important role in the SEC proceedings. In this matter, Concord’s interests are heightened because it has an ownership interest in conservation land and other properties along the proposed route.

The SEC's requirement that Concord participate in this proceeding only through a designated spokesperson and the consolidation of filings with parties in its grouping will prevent Concord from a fair and adequate opportunity to respond to issues in a way that fully protects the City of Concord's procedural due process interests. *See* U.S. CONST. amend. XIV; N.H. CONST., pt. I, art. 15. While on the surface, the issues raised by municipalities may seem similar, each municipality is primarily concerned with the project impacts within its own borders. Concord can only be effectively heard through its own attorneys and through exclusive management of how it presents testimony and legal arguments before the SEC. Moreover, the spokesperson designation could also impair Concord's attorneys from carrying out strategic activities for Concord because of a consolidation obligation imposed by the SEC, which may require Concord to accommodate the interests of other parties through the cross-examination of witnesses and the filing of briefs.

The consolidation of Concord into Municipal Group 3 (South) also contains unworkable and rigorous requirements for conducting discovery, filing of pleadings and for cross-examination of witnesses through one spokesperson. The SEC's order does not allow Concord to conduct cross-examination to address issues of specific concern to Concord, but rather, Concord will be required to rely on the Group's chosen "spokesperson" to address these issues during the cross-examination of a particular witness.

This approach is problematic for the Group's spokesperson, whoever is designated, because that person will be required to cross-examine witnesses on issues that have no impact on the community that he or she represents. By way of example, Concord has been grouped with Deerfield, Pembroke and Canterbury. Deerfield has raised funds to hire legal counsel, and it has unique issues because it includes the proposed terminal substation. In the event that legal

counsel for Deerfield is the chosen spokesperson to cross-examine a particular witness, Concord will be forced to rely on that individual to address issues that are unique to Concord. This is patently unfair. Concord should be allowed to have its unique interests represented by its attorney, and should not be required to rely on a spokesperson from another community. Moreover, the taxpayers of Deerfield should not be forced to incur the expense of having its attorney prepare for cross examination on issues that are unique to Concord and have no bearing on Deerfield. The SEC's order is also problematic because it does not allow Concord to file supplemental pleadings on relevant issues of specific concern to Concord, and it also does not appear to allow Concord to ask questions of witnesses during technical sessions.

This unprecedented approach is not justified and not consistent with the rights afforded to municipalities under previous SEC proceedings. As discussed in Concord's motion for review of order on intervention, the SEC has long allowed municipalities that are impacted by a proposed project the right to independently respond and present evidence on issues in a contested case proceeding. *See, e.g., Application of Antrim Wind Energy, LLC*, Docket No. 2015-02 (order dated February 16, 2016); *Petition for Jurisdiction over Renewable Facility by Antrim Wind Energy, LLC*, Docket No. 2014-05 (order dated March 13, 2015); *Application of Antrim Wind Energy, LLC*, Docket No. 2012-01 (order dated May 18, 2012); *Application of Groton Wind, LLC*, Docket No. 2010-01 (order dated June 25, 2010); *Application of Laidlaw Berlin BioPower, LLC*, Docket No. 2009-02 (order dated March 24, 2010). Municipalities have historically been allowed to participate in the adjudicatory process as full parties, and have not been consolidated.

For all of the reasons set forth herein, as well as all of the arguments raised in Concord's motion for review of order on intervention, Concord seeks an appeal on the order of the SEC. Rather than formal consolidation and mandatory groupings, the SEC should instead encourage

coordination between Concord and the other members of Municipal Group 3 (South) to avoid duplication. It should be noted that the SEC continues to have the right to impose limitations during hearings and other proceedings to avoid the duplication of evidence and testimony.

Based upon the important matters at stake, Concord requests that this Court accept the appeal, and direct the submission of briefs and the scheduling of oral argument.

I. PRESERVATION OF ISSUES FOR APPEAL

Every issue raised has been presented to the SEC and has been properly preserved for appellate review by a properly filed pleading.

Respectfully submitted,

CITY OF CONCORD

Dated: July 22, 2016

By: 

Danielle L. Pacik, Bar No 14924
Deputy City Solicitor
41 Green Street
Concord, NH 03301
(603) 225-8505

RULE 10(7) CERTIFICATION

In accordance with Rule 10(7), I certify that I have provided notice of this Appeal by mailing to: Barry Needleman, Esquire and Thomas Getz, Esquire, 11 South Main St., Suite 500 Concord, NH 03301, lead counsel for Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy; Senior Assistant Attorney General Peter Roth, New Hampshire Department of Justice, 33 Capitol Street, Concord, NH 03301, Counsel for the Public; Thomas Pappas, Esquire, 900 Elm Street Manchester, NH 03101, counsel for Counsel for the Public; New Hampshire Attorney General Joseph Foster, New Hampshire Department of Justice, 33 Capitol Street, Concord, NH 0330; and the New Hampshire Site Evaluation Committee, 21 South Fruit Street, Suite 10, Concord, NH 03301. All other counsel and intervenors have been notified by the distribution list per the process adopted by the New Hampshire Site Evaluation Committee.

Date: July 22, 2016

By: 

Danielle L. Pacik

**THE STATE OF NEW HAMPSHIRE
SUPREME COURT**

NO. 2016-_____

APPEAL OF THE CITY OF CONCORD

APPENDIX

**APPEAL FROM DECISION OF THE NEW HAMPSHIRE SITE EVALUATION
COMMITTEE UNDER SUPREME COURT RULE 10 AND RSA 541:6**

CITY OF CONCORD

Danielle L. Pacik
NH Bar No. 14924
Deputy City Solicitor
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**THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

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 the Construction of a New High Voltage Transmission Line in New Hampshire

Docket No. 2015-06

CITY OF CONCORD'S PETITION TO INTERVENE

The City of Concord, by and through its attorneys, the Office of the City Solicitor, petitions the Site Evaluation Committee to allow it to intervene in the above-captioned matter in accordance with RSA 541-A:32 and NH Admin. Rule Site 202.11, stating as follows:

1. On October 19, 2015, Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (the "Applicants") filed an application for a Certificate of Site and Facility with the Site Evaluation Committee. A portion of the proposed facility will be located in the City of Concord.

2. The City of Concord has an interest in the proposed facility because it is projected to cross through significant portions of the City of Concord, and unlike much of the rest of the proposed Northern Pass route in New Hampshire, in Concord it will be abutting dense residential neighborhoods. There are 8.1 miles of the proposed project that passes through the City of Concord. In addition to new overhead lines throughout that 8.1 mile area, there are estimated to be 77 new structures and the majority of those new structures are proposed to be between 85' to 100' in height. The City is concerned about the impact that the project will have on the City's character and property values as a result of the overhead lines and supporting structures. The visual and audio impacts of transmission lines and large structures are also of particular worry. In order to reduce the project's impacts, the burial of the lines within the City of Concord needs to be thoroughly explored.

3. On October 13, 2015, the City Council directed the Office of the City Solicitor to file for intervenor status with the Site Evaluation Committee. *See* attached Consent Report to the Mayor and City Council, approved by the City Council on October 13, 2015.

4. RSA 541-A:32 and NH Admin. Rule Site 202.11 provide that the Site Evaluation Committee, or its presiding officer, shall grant a petition for intervention if:

- (1) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's order of notice of the hearing, at least 3 days before the hearing;
- (2) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests might be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and
- (3) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

5. As discussed herein, the proposed facility will impact the rights, duties, privileges, immunities and other substantial interests of the City of Concord. The interests of justice and orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

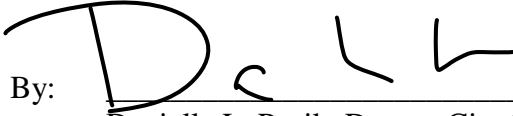
WHEREFORE, the City of Concord respectfully requests that the Site Evaluation Committee:

- A. Grant the City of Concord's Petition to Intervene; and
- B. Grant such other and further relief as may be just.

Respectfully submitted,

CITY OF CONCORD

November 17, 2015


By: 

Danielle L. Pacik, Deputy City Solicitor
41 Green Street
Concord, New Hampshire 03301
Telephone: (603) 225-8505
Facsimile: (603) 225-8558
dpacik@concordnh.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2015, a copy of the foregoing was sent by electronic mail to persons named on the Service List of this docket.

November 17, 2015

By: 

Danielle L. Pacik, Deputy City Solicitor



CITY OF CONCORD

REPORT TO THE MAYOR AND CITY COUNCIL

FROM: Northern Pass Committee

DATE: October 6, 2015

SUBJECT: Interim Report on the Northern Pass

Recommendation:

Accept this report recommending the following three actions:

- 1) That the Council direct the City Solicitor to file for intervener status with the State of New Hampshire's Site Evaluation Committee relative to the Northern Pass application; and
- 2) That City staff continue to follow the evolution of the Forward NH Fund; and
- 3) That the Council recommend—based on the information to date—that the Northern Pass bury its proposed line along the entire 8 mile route through Concord.

Background

At its March 9, 2015 meeting, the City Council appointed a committee to examine the Northern Pass project specific to its impact on Concord.

The committee, comprised of Councilor Matson (chairwoman); Councilor Bouchard; Councilor Coen and Mayor Pro Tem St. Hilaire met 6 times to review this matter between March 23, 2015 and October 5, 2015. Approximately 50 individual instances of testimony were taken from representatives of Northern Pass, the Society for the Protection of New Hampshire Forests, the Appalachian Mountain Club, and the general public. Over 20 email messages were submitted from the public for the committee's consideration as well as a petition comprised of (to date) 664 signatures all requesting burial of the Northern Pass project through Concord.

Officials with the Northern Pass project attended every meeting and provided answers to the committee's questions and promptly fulfilled requests for information solicited by committee members. Northern Pass representatives also submitted a PowerPoint presentation and a set of

visual simulations depicting the Loudon Road and D'Amante Drive intersection as well as perspectives from McKenna's Purchase. All of the public's correspondence, Northern Pass submittals, historical documents, and meeting minutes were posted on the committee's webpage and are included as attachments to this report.

Discussion

In its examination of the project, the Committee focused on the following key areas:

- 1) Tax implications: One of the central points put forth by the Northern Pass project has been the significant tax payments that would be generated by the value of the new infrastructure. The Concord portion of the project is estimated, by Northern Pass, to be valued at \$30,856,902 which Northern Pass calculates will generate \$548,636 in total tax payments to the City of Concord and the applicable school district.ⁱ Taxes paid to the County would be separate from this number based on its tax rate. In an April 22, 2015 letter to the committee, Northern Pass officials estimated that the County tax payment would be approximately \$90,000.ⁱⁱ

What the Committee found is that the “net book” methodology that Northern Pass prefers to utilize in determining its infrastructure's value would present the City with a continuously declining value over a twenty year horizon. According to testimony and documentation provided by Northern Pass' economist, Lisa Shapiro, Northern Pass contends that the value of its project would drop from \$30,856,902 in 2019 (year 1) to \$18,756,379 in 2038.ⁱⁱⁱ

Concord's Director of Real Estate Assessments, Kathy Temchack, testified that she would not employ a “net book” value methodology and instead would utilize a “replacement costs new less depreciation” methodology. The latter would allow for the depreciation but mitigate for some of the loss in value through the application of an inflation factor based on a potential replacement value.

It was noted by the Northern Pass economist that the tax payments generated by Northern Pass could actually increase, despite the declining project value, based on the assumption that the local tax rates would outpace the percentage of depreciation. While this could occur, it is also important to note that in a period of significant overall community tax base growth, the tax rate might not outpace the depreciation and Northern Pass would garner a benefit that other property owners in Concord would not enjoy.

Although the City—at present—is not legally compelled to utilize Northern Pass' methodology, Eversource—Northern Pass' parent company—is in active litigation in New Hampshire courts seeking to have this “net book” approach be the accepted methodology applied by municipalities in valuing its infrastructure.

- 2) Impact on Residents: The most frequent and visceral concern raised by the public in testimony and correspondence related to the overhead lines and supporting structures. Residents that testified or submitted correspondence expressed significant worry about the possible line noise and visual impact of this project and the fear of its potential negative effect on City property values.

To demonstrate what the project would look like along the densest neighborhoods it would abut, Northern Pass officials provided visual simulations taken at the Loudon Road/D'Amante Drive intersection as well as from McKenna's Purchase. The visualizations (which are enclosed) showed different support structure options such as a lattice, H-frame and monopole. The Committee and Northern Pass mutually agreed that the lattice structure was unacceptable and would not be considered in Concord.

Northern Pass officials explained that Concord would have H-Frame structures with two monopoles near Loudon Road and McKenna's Purchase. In total, there would be 77 new structures in addition to the 230 existing Eversource structures in the same proposed right of way. The majority of the Northern Pass structures would be between 85'-100' in height.

- 3) Burial Alternative: During the course of the Committee's meetings, the Northern Pass released the *Forward NH Plan* which proposed to bury 52 miles within the White Mountain National Forest in addition to the 8 miles that had already been determined would be buried in the North Country. According to information provided by Northern Pass, the line would be buried in "public roadways" and would eliminate more than 400 structures.^{iv}

The Committee asked Northern Pass officials whether a similar burial could be accomplished in Concord. Northern Pass representatives explained that the costs for an aerial installation are approximately \$3 million per mile. However, burial would equate to \$8-\$13 million per mile depending on the soils, topography, etc. In addition, Northern Pass officials posited that the existing easements within their right of way in Concord did not allow for an underground installation and successful renegotiation of all of those easements would be extremely challenging, if not impossible.

The Committee, therefore, inquired about the feasibility of Northern Pass burying the line along a roadway as was proposed in the White Mountain National Forest. Northern Pass officials explained that they would likely be precluded by federal and state regulations from using I-93 right of way unless the state and federal government would agree that

there was a significant hardship that made an I-93 route the only viable alternative. However, Northern Pass Project Director Jerry Fortier did testify that it is a long-standing practice for lines to be buried along non-interstate roadways.^v The Committee felt that this option should be explored.

- 4) Forward NH Fund: Northern Pass' *Forward NH Plan* included a \$200 million fund dedicated to "support important initiatives in tourism, economic development, community investment, and clean energy innovation."^{vi} In testimony before the Committee, Northern Pass officials explained that the Fund is for the entire state, not simply communities that are along the Northern Pass route. Investments from the Fund would be made over 20 years. Northern Pass officials indicated that an advisory committee is planned to oversee the Fund but it has not yet been convened.

The Committee felt that the Fund was worth monitoring and recommends that City Staff stay informed of how the fund evolves.

- 5) Site Evaluation Committee: As the Council is aware, the City is an intervener in the U.S. Department of Energy's review of the Northern Pass' federal permit. The Committee felt it was imperative for the City to also intervene in the State's Site Evaluation Committee and recommends that Council direct the City Solicitor to do so.

Conclusion

The Committee acknowledges, as did many of the residents that participated in this process, that it finds no issue with the merits of the Northern Pass project in light of the need for greater energy diversity in the region. However, in its opinion, burial of the Northern Pass project in Concord has not yet been thoroughly explored by Northern Pass. Therefore, the Committee stresses that this report, while important, is an interim step. The Committee hopes that if Council supports the recommendation seeking Northern Pass' burial of the line, Northern Pass officials will endeavor to fully vet that alternative and will return to the City with a new plan that takes into account what was discussed during the Committee's review. The Committee is prepared and willing to reconvene to further analyze any new development relative to the project.

The Committee's work, to date, would not have been possible without the assistance of the Community Development Department and the cooperation of Northern Pass officials who dedicated their time to attending every meeting and answering questions. The Committee especially wishes to thank the public for its continued engagement in this important matter.

w/att.

ⁱ Based on a spreadsheet entitled “Concord: Illustration of Northern Pass Transmission Local Property Tax Payments,” submitted to the Committee on September 15, 2015 by Lisa Shapiro, economist for the Northern Pass project.

ⁱⁱ Letter dated April 22, 2015 to Deputy City Manager Carlos P. Baía from Bonnie Kurylo with Northern Pass.

ⁱⁱⁱ Shapiro, September 15, 2015.

^{iv} *Forward NH Plan* News Release, August 18, 2015, “Northern Pass Will Now Go Under Roadways in Treasured Areas, Including White Mountain National Forest,” p. 2.

^v Comments by Jerry Fortier as cited in minutes of the 9/15/15 Northern Pass Committee meeting, p.6.

^{vi} *Forward NH Plan* News Release, August 18, 2015, p. 2.

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

**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 the
Construction of a New High Voltage Electric Transmission Line in New Hampshire**

SEC DOCKET NO. 2015-06

APPLICANTS' RESPONSE TO CITY OF CONCORD'S PETITION TO INTERVENE

NOW COME Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (the "Applicants") by and through their attorneys, McLane Middleton, Professional Association, and respectfully submit this Response to the City of Concord's Petition to Intervene and state as follows:

1. On October 19, 2015, the Applicants filed an application for a Certificate of Site and Facility with the New Hampshire Site Evaluation Committee ("SEC" or "Committee") to construct and operate a 1,090 MW electric transmission line and related facilities from the international border with Canada in Pittsfield, New Hampshire to Deerfield, New Hampshire. The Committee is currently reviewing the application to determine whether it is administratively complete.
2. On November 17, 2015, the City of Concord filed a petition to intervene in the SEC proceedings.
3. Until an Application has been accepted as administratively complete, and the SEC has issued a procedural order governing, among other things, the intervention process, any requests for intervention are untimely and procedurally improper. *See e.g., Order Determining Application to be Incomplete*, Application of Atlantic Wind, LLC, NH SEC, Docket No. 2013-02, at 17 (Jan. 13, 2014) ("All motions to intervene in this docket shall be held in abeyance until such time as a complete Application has been accepted."); Site 202.11 (a) (requiring that persons

seeking to intervene shall file their petitions with the SEC and with parties identified in the notice of hearing). *See also* Applicants' Response to Intervention Request by Holderness Conservation Commission, Joint Application of Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a/ Eversource Energy, NH SEC Docket No. 2015–06 (Sept. 2, 2015) (requesting that the Committee issue an order holding that petitions to intervene filed in advance of an order of prehearing conference are inconsistent with Site 202.11 and requesting that all petitions to intervene be held in abeyance until a procedural order is issued).

4. It is reasonable to expect that this docket will generate substantial third-party interest and related motion practice. The Applicants believe that such practice should be handled in an orderly manner consistent with established SEC procedures. Therefore, all such motion practice should be held until an Application has been accepted, a procedural order has been issued and deadlines for the filing of petitions to intervene and objections have been established.

5. Once the Application has been accepted and a procedural order is issued, the Applicants do not anticipate objecting to the City of Concord's petition to intervene. The Applicants, however, reserve the right to request that the scope of the City of Concord's participation be appropriately managed consistent with SEC rules and prior practice. *See e.g.*, Site 202.11(d)(1)–(3).

WHEREFORE, the Applicants respectfully request that the Committee:

A. Issue an Order holding that Petitions to intervene filed in advance of an order and notice of prehearing conference are inconsistent with Site 202.11 and therefore, the City of Concord's Petition to Intervene will be held in abeyance until a procedural order has been issued;

B. Post a notice stating that other intervention requests will not be accepted until a procedural order has been issued and appropriate deadlines have been established; and

C. Grant such further relief as it deems appropriate.

Respectfully Submitted,

Northern Pass Transmission LLC and

Public Service Company of New Hampshire

By its attorneys,

McLANE MIDDLETON
PROFESSIONAL ASSOCIATION

Dated: November 24, 2015

By: 

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Certificate of Service

I hereby certify that on the 24th of November 2015, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was sent via e-mail to the individuals on the SEC distribution list.


Barry Needleman

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' RESPONSE AND OBJECTION
TO CERTAIN PETITIONS TO INTERVENE**

NOW COME Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively the "Applicants"), by and through their attorneys, McLane Middleton, Professional Association, and respectfully submit this Response and Objection to Certain Petitions to Intervene ("Response") in the above-captioned proceeding.

I. Introduction

1. On October 19, 2015, the Applicants filed an application with the New Hampshire Site Evaluation Committee ("SEC" or the "Committee") for a Certificate of Site and Facility to construct a 1,090 MW transmission line to transport hydro-electric energy from Québec to New Hampshire.

2. Over one hundred individuals, governmental bodies, and non-governmental organizations ("NGOs") filed Petitions to Intervene. These petitioners are listed in Exhibit A, attached to this Response, and are grouped into categories as described further below.

3. The Applicants recognize that parties with legitimate and concrete interests, who can properly satisfy applicable legal requirements, should be granted permission to intervene in this proceeding. At the same time, Applicants have certain due process rights that include ensuring the proceeding occurs in an orderly and prompt manner, and that potential interveners

meet the requirements of law in order to participate. These competing rights must be balanced. This Response and Objection focuses on that balance.

II. Standard for Intervention

4. Through the New Hampshire Administrative Procedure Act, RSA 541-A: 32, the Legislature has established two categories for intervention in an administrative proceeding. The first category is mandatory, that is, it concerns when an administrative agency *shall* grant intervention. The second category is discretionary, that is, it concerns when an administrative agency *may* grant intervention.

5. RSA 541-A:32, I, sets forth circumstances under which a presiding officer shall or must allow intervention. Specifically, a petition for intervention shall be granted if: (a) the petition is properly filed; (b) the petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervener under any provision of law; and (c) the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention. See RSA 541-A: 32, I; N.H. Code Admin. R., Site 202.11(b).

6. The Committee has routinely recognized that mandatory intervention is only available when a petitioner demonstrates a substantial, direct interest that may be affected. Correspondingly, it has determined that merely residing in a town or county in which a project is proposed or having experience with local boards “does not equate to a substantial interest that may be affected by the outcome of the proceeding.” Order Granting Petitions to Intervene and Revising Procedural Schedule, Docket No. 2008-04 (October 14, 2008), p. 5; *See Id.* (“Being a resident of the county or having other experience with local boards does not equate to a substantial interest that may be affected by the outcome of the proceeding”); *See also* Order on

Motions to Intervene and Further Procedural Order, Docket No. 2011-02 (May 6, 2011), p. 5 (“It is ... clear that merely residing in Antrim does not create a sufficient interest to justify participation as an intervener in these proceedings”). In addition, the Committee rejected a petition from a citizen and business owner/real estate broker in Docket 2009-02, finding that he had “no substantial interest in this docket that differs from the interests of the public at large” and that the interests he claimed would “be adequately represented by counsel for the public.” *See Order on Pending Motions*, Docket No. 2009-02 (March 24, 2010), p. 6. Similarly, the Public Utilities Commission has observed that “[i]t should be recognized that merely being interested in such a proceeding is not the same as having a legal interest of some nature that may be affected by the proceeding.” *Re North Atlantic Energy Corporation*, 87 NHPUC 455, 456 (2002). “Merely expressing a concern about a relevant issue, no matter how well-intentioned, does not confer party status.” *Id.*

7. Under RSA 541-A:32, II and Site 202.11(c), a presiding officer may, in certain circumstances, permit intervention. Granting discretionary or permissive intervention requires a determination that such intervention “would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.” RSA 541-A:32, II.

8. In the case of both mandatory and discretionary intervention, the presiding officer may impose conditions on the participation of interveners in a proceeding in order to “promote the efficient and orderly process of the proceeding.” Site 202.11(d). For example, in Docket No. 2008-04, the Committee found that residents of Coös County did not have a substantial interest in the proceeding, but used its discretionary authority to grant them limited intervention. The Committee held “[t]o ensure that the permissive intervention of these parties will not interfere with the orderly and prompt conduct of these proceedings, their participation will be combined

for all purposes; including discovery, presentation of evidence, and conduct of cross-examination.” *See* Order Granting Petitions to Intervene and Revising Procedural Schedule, Docket No. 2008-04 (October 14, 2008). Additionally, in Docket No. 2009-02, the Committee granted the intervention of the New Hampshire Sierra Club but limited its participation as an intervener only to the specific interests alleged in its petition. *See* Order on Pending Motions, Docket No. 2009-02 (March 24, 2010).

III. Discussion

Given the volume of petitions to intervene submitted in this docket, for ease of discussion, and management of the proceeding, the Applicants have grouped the petitioners into categories and subcategories. The categories include Individuals (subdivided by abutters, non-abutters, and elected officials), Governmental Bodies (subdivided by towns and other municipal sub-units), NGOs, and Businesses. *See* Attachment A. The Applicants separately address each category, below.

A. Individuals

9. Each individual or group of individuals alleges that they own property and/or reside in New Hampshire. Although some petitions are more explicit than others, the petitioners tend to rely on the proximity of their respective property or residence to the Project route as the foundation for their alleged interest(s) in this proceeding. The Applicants acknowledge that individuals residing within close proximity to the Project (e.g. abutting property owners) may have an interest supporting their right to intervene.

10. The Applicants propose that the SEC draw on its new rules to determine “close proximity” for purposes of mandatory intervention. Specifically, to establish a legal interest based on a property’s proximity to the Project, the property should either abut the Project or be

within 100 feet of the Project. This test is consistent with the requirements of Site 301.03, which requires applicants for certificates of site and facility to include certain information about a proposed project's location "on abutting property with respect to the site, and within 100 feet of the site if such distance extends beyond the boundary of any abutting property." *See* Site 301.03(c).

11. Notwithstanding, to the extent that any particular petitioner has failed to allege a substantial interest affected by the proceeding, did not properly plead or fairly describe its circumstances, or otherwise demonstrate a basis for mandatory intervention, the Applicants urge the Committee to deny such a petition to intervene.

1. Abutters and Non-Abutters Within One Hundred Feet of the Project

12. The Applicants do not object to the Petitions to Intervene of abutting property owners and those non-abutting property owners whose properties are within 100 feet of the Project so long as the Committee imposes conditions pursuant to RSA 541-A:32, III to assure that intervention of such individuals does not impair the prompt and orderly conduct of the proceeding. Hence, to the extent that such parties are grouped together, that their intervention is limited only to those issues for which the Committee finds they have demonstrated a substantial interest, and that they combine their presentations of evidence and argument, cross-examination and other participation in this proceeding, the Applicants do not oppose those petitions. *See* Site 202.11(d).

2. Non-Abutters Not Within One Hundred Feet of the Project

13. As a threshold matter, non-abutting property owners whose properties are more than one hundred feet from the Project ("Non-Abutters") have not demonstrated substantial interests that would be affected by the proceeding. Accordingly, the Committee is not required

to grant their petitions because they failed to establish a particularized injury. The Committee may, however, permit such parties to intervene “in the interests of justice.”

14. Given the circumstances of this proceeding, the scale of the Project and the number of petitions filed with the Committee, the Applicants ask that the Committee exercise its discretion judiciously when rendering decisions about such petitions in order to preserve the orderly and prompt conduct of the proceeding and the integrity of the hearing process overall. In the absence of strict conditions on the participation of such individuals, granting such petitions would create significant risk of disrupting the orderly conduct of the proceedings, would not serve the interests of justice, and would undermine the Applicants’ due process right to a prompt and orderly proceeding. In light of these issues, the Applicants make the following proposals.

i. **Failure to Allege Sufficient Facts to Establish a Particularized Injury**

15. Parties petitioning to intervene must set forth enough facts to demonstrate that they have a legal right to intervene. See RSA 541-A:32, I(b); *Appeal of Stonyfield*, 159 N.H. 227, 231 (2009) (stating that “a party must demonstrate this his rights ‘may be directly affected by the decision, or in other words, that he has suffered or will suffer an injury in fact.’”) (internal quotations omitted). General allegations of harm are not sufficient. See *Blanchard v. Railroad*, 36 N.H. 263, 264 (1993) (finding that standing does not exist if a party cannot establish that it has an “interest[] in or [is] affected by the proceedings in some manner differently from the public, citizens, and taxpayers generally”).

16. Non-Abutters do not meet this requirement because their alleged interest(s) in these proceedings are no different from the interests of the public in general. See *Blanchard*, 86 N.H. at 264 (quoting *Bennett v. Tuftonborough*, 72 N.H. 63, 64 1903); See Order on Petitions to Intervene, Docket No. 2015-02 (February 16, 2016) (denying the petitions to intervene of non-

abutting property owners who do not demonstrate a substantial right, privilege or interest in the outcome of the proceedings). Standing does not exist if a party alleges "nothing distinguishing [its] right and interest from that of other citizens and taxpayers." *Id.* Further, the Non-Abutters have not and cannot allege any specific injury that they have suffered or will suffer that would provide a basis for standing. *Blanchard*, 86 N.H. at 264; *Appeal of Richards*, 134 N.H. 148, 156 (1991) (where a party is unable to demonstrate an actual or immediate injury, there is no standing).

17. Because the Non-Abutters do not own property that abuts the Project or is within close proximity to the Project, they have not and cannot allege any fact to distinguish themselves from the rest of the general public.¹ There is nothing in particular about the Non-Abutters' properties that distinguish them from other local residents and taxpayers. Each of the Non-Abutter's alleged interest in this proceeding arises from the premise that the Project's proximity to their properties will have an adverse effect on certain property interests. However, the claims do not satisfy the legal requirements for intervention.

ii. Non-Abutter Interests are Sufficiently Represented by Abutting Property Owners

18. In order for the Committee to grant a petition to intervene it must first find that "the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention." Site 202.11(b)(3). The interests of justice do not require the intervention of Non-Abutters because their interests are sufficiently represented by other parties to the proceeding (e.g. Public Counsel, their own towns and municipalities, etc.). It stands to reason that any interests alleged by non-abutting property owners are either a subset in kind or a less acute form of any interests alleged by abutting property owners. That is, a non-

¹ See Exhibit A

abutting property owner cannot allege an interest that an abutting property owner could not also allege.

19. Given that approximately 51 abutting property owners have petitioned to intervene, and given that the Applicants do not object to the petitions of abutting property owners, the intervention of non-abutting property owners will be wholly duplicative, will impair the interests of justice and will interfere with the orderly conduct of the proceeding.

iii. **Non-Abutter Interests Are Sufficiently Represented by Counsel for the Public**

20. Potential interveners must distinguish their interest in a manner that makes clear they will not overlap with, and repeat the efforts of Counsel for the Public, thereby subjecting the applicant to duplicative discovery requests, duplicative expert opinions and duplicative testimony. Such an outcome would be manifestly unfair to the Applicants, it would be a substantial waste of resources and it would no doubt violate the statutory mandate requiring that interveners not interfere with the orderly conduct of the proceedings. Issues that deal with the environment—including aesthetics—are precisely within the purview of Counsel for the Public.

The [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 an attorney representing a party in formal action and shall serve until the decision to issue or deny a certificate is final.

RSA 162-H:9.

21. Where Counsel for the Public already represents those interests, persons like the Non-Abutters have no standing. *See Appeal of Richards*, 134 N.H. at 156 (1991) (“[n]o individual or group of individuals has standing to appeal when the alleged injury caused by the administrative agency's action affects the public in general, particularly when the affected public interest is represented by an authorized official or agent of the state”).

22. The Committee has previously denied intervener status to non-abutting property owners like the Non-Abutters here. In reviewing the Petitions to Intervene submitted by property owners in the Antrim docket, the Committee held that certain property owners should not be granted intervener status because their interest was no “different from the interest of the public at large or the interest that may be represented by Counsel for the Public.” Order on Pending Motions, Re: Application of Antrim Wind, LLC, Docket No. 2014-05 at 16 (March 13, 2015). Both Counsel for the Public and the Committee will explore each issue the Non-Abutters have raised in great depth. It is their obligation and responsibility to do so. Thus, the Non-Abutters’ interests are adequately represented and their participation would be entirely repetitive and create significant risk of interference with the orderly conduct of the proceedings. Therefore, the alleged interests by the Non-Abutters are insufficient to provide a basis to grant their Petition for Intervention.

iv. **If the Committee Exercises Its Discretion to Grant The Non-Abutters’ Petitions, It Should Limit Their Participation Pursuant to RSA 541-A:32,III and Site 202.11(d)**

23. The New Hampshire Administrative Procedure Act and the New Hampshire Code of Administrative Rules provide that if the SEC allows a Petition to Intervene, the SEC may place limits on an intervener's participation. In this case, if the Committee is inclined to allow Non-Abutters to intervene, their roles should be limited pursuant to Site 202.11 (d). Specifically, the Applicants propose that Non-Abutters be grouped with abutting property owners and that their participation be limited only to those issues for which the Committee determines they have clearly and unequivocally demonstrated they have an interest. Conversely, it would be manifestly unfair to the Applicants to permit non-abutting property owners to intervene generally

on all issues where they have not alleged or demonstrated any interest relating to such issues, and where such issues will be adequately litigated by Counsel for the Public and other parties.

24. The Committee has limited the role of interveners in the past. Order on Pending Motions, Re: Application of Laidlaw Berlin BioPower, LLC, Docket No. 2009-02 at 3-5 (March 24, 2010). In analyzing three separate motions to intervene in the Laidlaw case, the Committee limited the participation of each intervener, pursuant to RSA 541-A:35, III and Site202.11(d), to only the issues where the petitioner could clearly demonstrate that it had a particular interest in the proceeding.

25. The SEC has routinely combined two or more interveners into one group in order to limit the presentation of evidence, arguments, and cross-examinations. In *Report of Prehearing Conference and Technical Session and Procedural Order, Re: Application of Groton Wind, LLC*, Docket No. 2010-01 (June 25, 2010), numerous residents of the Town of Rumney moved to intervene. The presiding officer allowed the residents of Rumney to intervene because the SEC found that each resident lived within close proximity to the proposed site and each resident may suffer an individualized harm from the construction of the project. The presiding officer, however, consolidated the residents together because the presiding officer found that all of the residents were "concerned about the same or similar issues and are similarly situated" and that "separate intervention of each resident could lead to unnecessary repetition and interfere with the prompt and orderly conduct of the proceedings." *Id.*

26. Most recently, the Committee limited the participation of interveners in the Antrim Wind docket. In analyzing the individual non-abutting property owners' motions to intervene, the Committee held "[I]n order to assure the orderly conduct of these proceedings and to avoid duplication of arguments ... it is necessary to combine the non-abutters as a single party

in this proceeding.” Order on Petitions to Intervene, Docket No. 2015-02 at 16 (February 16, 2016). The Committee further required that “the non-abutters ... designate a single spokesperson for the purposes of filing pleadings, conducting discovery and for examination at evidentiary hearings.” *Id.*

27. Notwithstanding all these points, a number of non-abutting property owners make the argument that their interest in the Project arises due to their proximity to the route formerly proposed by the Applicants. The Applicants specifically object to this assertion. Although the Applicants are required by law to include this formerly proposed route in this proceeding, the route is not actually under consideration. Therefore, any interest alleged based on the former route is improper. For that reason, the Applicants request that, should the Committee in its discretion allow some or all Non-Abutters to intervene, such interveners may not litigate issues concerning the former route. To allow otherwise would constitute a substantial waste of time and resources for all parties to the proceeding.

3. Elected Officials

28. A number of State Legislators have sought to intervene in the proceeding, alleging that (1) they have an interest in protecting New Hampshire’s natural beauty, (2) they have an interest in the Committee’s interpretation of “public interest” and (3) “[m]any of our constituents have expressed serious concerns about the Joint Applicants’ proposal.” *See* Joint Petition to Intervene by Certain New Hampshire State Legislators (Feb. 5, 2016). These interests are not substantial interests under RSA 541-A:32, I that require the Committee to grant intervention. To the extent the Committee determines to grant intervention, it should be as an exercise of discretion under RSA 541:32, II.

29. The fact that an individual has been elected to a public office does not constitute a right, duty, privilege, immunity, or other substantial interest that may be affected by this proceeding or any other. To decide otherwise would lead to the strained conclusion that 424 state legislators and countless local and county officials have a right to participate in any docket of their choosing. Surely, such a result would impair the orderly and prompt conduct of proceedings.

30. The participation of state legislators as parties to an adjudicative proceeding, moreover, raises concerns about the interests of justice and the propriety of members of the legislative branch appearing before an agency that is a creation of the legislature, and urging that agency to deny an application for a particular project. It is one thing for a legislator to make a comment in a proceeding on his or her own behalf, or even on behalf of some group of constituents. It is quite another thing for a group of state legislators to act as party in a judicial setting where they are conducting discovery and being subjected to discovery, submitting testimony, cross-examining witnesses and being cross-examined, and filing briefs. As a means of constituent service it raises numerous questions for the Committee to consider. Are the legislators speaking on behalf of all their constituents and, if not, how many? What should the Committee make of the absence of the other 83% of the legislature from the proceeding? Could it be that they are neutral or in favor of the Project?

31. The elected officials also indicate that they are interested in how the new statute will be interpreted. They may seek to take some positions on that question and in fact, some have already done so. Certainly, there is no legal basis for giving any special weight or deference to their arguments on what the legislature as a whole intended when it passed the new legislation. Nonetheless, it is a peculiar circumstance fraught with concern when members of the

legislature undertake to influence the outcome of a judicial proceeding using their official status as a means of entry.

32. To the extent the elected officials have a cognizable interest in this proceeding it is in the same vein as any individual that has sought intervention and it appears that the elected officials all fall within the category of non-abutters. Consequently, the Applicants ask that the elected officials be included within and required to coordinate with that group, subject to the same conditions.

4. Mr. Thomas N.T. Mullen

33. On February 2, 2016, Mr. Mullen filed a letter requesting intervention in this proceeding. The Applicants object because Mr. Mullen fails to articulate any “right, duty, privilege, immunity or other substantial interest that may be affected by the determination of the issues in this proceeding.” RSA 541-A:32, Site 202.11(b)(2).

34. Mr. Mullen makes a number of baseless allegations regarding a failed business venture and asserts that the personal losses he incurred from the failed real estate venture and his continued work in the real estate market in New Hampshire entitle him to intervene in this proceeding. Mr. Mullen alleges that his sales dwindled due to the former route proposed by the Applicants, leading to foreclosure on the property in December of 2014. Mr. Mullen states that he has “lodged a lawsuit” against the Applicants, which he represents as an ongoing controversy. In fact, that is wrong.

35. The Grafton County Superior Court dismissed Mr. Mullen’s suit in October of 2014. The New Hampshire Supreme Court summarily affirmed this dismissal in July of 2015, holding that “the trial court correctly dismissed the amended complaint for failure to state a claim upon which relief may be granted.” *See* Docket 2014-0797, Thomas N.T. Mullen & a. v.

Public Service Company of New Hampshire & a. (2015).

36. Mr. Mullen is not currently involved in any litigation with the Applicants and, in any event, such a circumstance is not a basis for granting intervention. Mr. Mullen was afforded his constitutional right to litigate his claims in the State Courts who found his claims to be without merit. He should not be permitted to re-litigate those same claims here. Moreover, the Site Evaluation Committee is not the proper venue to voice such a grievance.

37. Finally, Mr. Mullen argues that the Project “continues to hamper [his] ability to earn a living from the sale of property,” further entitling him to intervene. This allegation is far too broad an assertion and too speculative a platform on which to establish standing in this proceeding. In Docket No. 2009-02 the Committee denied the petition to intervene of Jonathan Edwards, a real estate agent, finding that “he has no substantial interest in this docket that differs from the interests of the public at large.” *See* Order on Pending Motions, Docket No. 2009-02 (Mach 24, 2010). In that case, Mr. Edwards asserted that he was a ratepayer who would be affected by the project. Here, Mr. Mullen is making a similar argument – that he is a real estate agent who will be affected by the Project. Therefore, Mr. Mullen’s petition should be denied.

5. Ms. Anita Giulietti

38. On February 5, 2016 Ms. Anita Giulietti filed a letter requesting intervention in this proceeding. The Applicants object because Ms. Giulietti fails to articulate any “right, duty, privilege, immunity or other substantial interest that may be affected by the determination of the issues in this proceeding.” RSA 541-A:32, Site 202.11(b)(2).

39. Ms. Giulietti’s only stated interest in this proceeding is that the proposed route of the Project will allegedly be visible from a property she was previously interested in purchasing.

See Anita Giulietti Petition (February 5, 2015). The address of the property in question is 6 New Road, Meredith, NH 03253.

40. Ms. Giulietti cannot assert an interest in a property that she does not own. As such, her interest in the Project is indistinguishable from that of the general public and her petition should be denied.

6. Dr. Deborah Warner

41. On February 4, 2016 Dr. Deborah Warner filed a letter requesting intervention in this proceeding. The Applicants object because Dr. Warner fails to articulate any “right, duty, privilege, immunity or other substantial interest that may be affected by the determination of the issues in this proceeding.” RSA 541-A:32, Site 202.11(b)(2).

42. Dr. Warner alleges an interest in (1) the Project’s effects on recreation, (2) the Project’s effects on tourism and the reciprocal effect on her personal business, and (3) the wellbeing of her clients. These interests are insufficient to establish the basis for intervention here and moreover, will be adequately represented by Counsel for the Public.

43. Dr. Warner’s interests in recreation and tourism will be adequately represented by Counsel for the Public and are otherwise indistinguishable from the interests of the general public. *See Appeal of Richards*, 134 N.H. at 156 (1991) (“[n]o individual or group of individuals has standing to appeal when the alleged injury caused by the administrative agency's action affects the public in general, particularly when the affected public interest is represented by an authorized official or agent of the state”). Dr. Warner is also not an abutter to the Project nor will the Project be located within a close proximity to her business. Indeed, the Project will not be located in her town of Littleton.

44. Dr. Warner's allegation that "people are already traumatized by the threat of [the Project]" is without foundation and her claim that the Project will cause future trauma is pure speculation. Additionally, as a licensed psychologist, it is not within Dr. Warner's authority or professional responsibility to her clients to represent their interests in this proceeding, and it would be improper to grant her petition on such grounds. Therefore, Dr. Warner's petition should be denied.

7. "No Northern Pass Coalition"

45. The Applicants object to the intervention of the No Northern Pass Coalition Board of Directors. As a threshold matter, the No Northern Pass Coalition (NNPC) is not a legal entity capable of having legal standing to intervene. The group is neither organized nor incorporated in any manner that would confer upon them the legal rights for which they presently seek. *See R.J. Shortlidge, Jr. v. Francis C. Gutoski*, 125 N.H. 510, 513 (1984) ("A voluntary association, except as provided for by statute, has no legal existence apart from the members who compose it."). Furthermore, three of the five signatories to the NNPC petition have independently petitioned to intervene (Robert Tuveson, Gail Beaulieu, Elizabeth Terp). To grant these individuals the right to intervene independently as well as under the guise of the NNPC would be unfair to the Applicants since it would give the same parties multiples opportunities to conduct discovery, examine witnesses, sponsor witnesses and generally participate in this matter.

46. The NNPC has not pleaded any sort of legally protected interest in this proceeding. Rather, they assert that they have collected "over 6,000 signed petitions from individuals across the state of New Hampshire and New England" and "would like to enter these petitions into evidence and feel that the Site Evaluation Committee has an obligation to take [the] petitions into consideration when ruling on this project." *See* No Northern Pass Coalition Board

of Directors Petition (February 4, 2016). RSA 162-H:10, III requires the Committee to “consider and weigh all evidence presented at public hearings and shall consider and weigh written information and reports submitted to it by members of the public before, during, and subsequent to public hearings but prior to the closing of the record of the proceeding.” RSA 162-H:10, III. Therefore, the NNPC may submit any and all signed petitions to the Committee at any time prior to the closing of the record.

B. Municipalities, Municipal Governments and Municipal Sub-Units

1. Towns

47. The Applicants do not object to the petitions of Cities, Towns, or other Town Governing Bodies, provided that their interventions are limited to those issues for which they have demonstrated a concrete and well-defined interest. Additionally, for those Towns that voluntarily grouped themselves, the Applicants request that they be required to combine their presentations of evidence and argument, cross-examination and other participation in this proceeding pursuant to Site 202.11(d)(3).²

2. Municipal Sub-Units

48. The Applicants object to the separate intervention of municipal sub-units to the extent that their interests are already properly and sufficiently represented by their respective Towns and town governing bodies.³ As illustrated in Exhibit A, for each municipal sub-unit petitioning to intervene, their respective Town or Town governing body is also petitioning to intervene.

49. In order for a petition to intervene to be granted, the presiding officer must determine that the interests of justice and the orderly and prompt conduct of the proceedings

² See Exhibit A for a list of Towns and Town Governing Bodies fitting this category.

³ See Exhibit A for a list of municipal sub-units.

would not be impaired by allowing the intervention. *See* Site 202.11(b)(3). Potential interveners must distinguish their interest in a manner that makes clear they will not overlap with, and repeat the efforts of other similarly situated interveners as well as Counsel for the Public. *See Appeal of Richards*, 134 N.H. at 156 (1991).

50. In *Hookset Conservation Com'n v. Hookset Zoning Bd. of Adjustment*, 149 N.H. 63 (2003) (hereinafter “Hookset”), a town conservation commission sought review of the zoning board of adjustment’s determination involving interpretation of a zoning ordinance. The Court examined the “policy sought to be advanced by the statutory scheme” at issue in the case and held that the conservation commission did not have standing to bring the appeal because appeals by multiple local planning boards would interfere with “the prompt and orderly review of land use applications” and “cause considerable delays.” *Id.* at 68.

51. Although *Hookset* concerned a land use statute the holding is relevant by analogy to the issue in this proceeding. That is, where the interests of municipal sub-units are sufficiently represented by their respective municipal governing bodies, the participation of municipal sub-units is disruptive to the prompt and orderly conduct of the proceedings.

52. The Applicants recognize that municipal governing bodies have a substantial interest in this proceeding. Therefore, the Applicants do not oppose the petitions of Towns and Town governments, so long as their participation is coordinated and combined. As for municipal sub-units, the Applicants request is that they be required to combine or coordinate their participation with their respective Town either outside of these proceedings or as parties to the proceeding as the Committee deems appropriate and least likely to impair the prompt and orderly conduct of the proceeding.

C. Non-Governmental Organizations

1. New Hampshire Sierra Club, Appalachian Mountain Club, Society for the Protection of New Hampshire Forests, Conservation Law Foundation, Ammonoosuc Conservation Trust

53. The Applicants do not object to the interventions of the New Hampshire Sierra Club (NHSC), the Appalachian Mountain Club (AMC), the Society for the Protection of New Hampshire Forests (SPNHF), the Conservation Law Foundation (CLF) and the Ammonoosuc Conservation Trust (ACT). However, the Applicants request that these organizations be grouped together and their participation limited pursuant to Site 202.11(d). The Applicants note, however, that it is only SPNHF as an abutting property owner that merits consideration for mandatory intervention. To the extent the other organizations are granted intervention, it is as an exercise of the Committee's discretion.

54. The five organizations allege the same interests in this proceeding pertaining to energy consumption, natural resource use and the environment as providing a foundation for their petitions. Specifically, each organization makes the following claims:

- a. That members of their organization will be affected by this proceeding;
- b. That the organization is concerned about the Project's impact on natural resources and the environment; and
- c. That the organization is concerned about regional energy use and/or natural resources use.

55. Therefore, the Applicants request that these organizations be required to combine their presentations of evidence, arguments and cross-examination and that their participation in this proceeding be limited solely to the above-listed interests pursuant to Site 202.11(d). Given the shared interests and similar organizational structures of these organizations, to allow each to

intervene independent of one another would not serve the interests of justice and would disrupt the orderly and prompt conduct of the proceedings. For example, in Docket No. 2009-02, the Committee limited the intervention of the New Hampshire Sierra Club to the narrow interest articulated in its petition holding that “the prompt and orderly disposition of the proceedings ... require that the NHSC’s participation as an intervener shall be limited...” *See* Order on Pending Motions, Docket No. 2009-02 (March 24, 2010).

56. While the Applicants do not oppose the intervention of these organizations, the Applicants object to certain interests asserted by these groups as procedurally and substantively improper before this Committee. The Applicants’ position on this matter will be discussed in more detail in Section IV below.

2. New Hampshire Historic Preservation Alliance and The National Trust for Historic Preservation and The Sugar Hill Historic Museum

57. The Applicants do not object to the Joint Petition to Intervene of the New Hampshire Preservation Alliance (NHPA) and the National Trust for Historic Preservation (National Trust) or the petition of the Sugar Hill Historic Museum. However, the Applicants request that these organizations be grouped together and their intervention limited pursuant to Site 202.11(d).

58. Each of these organizations assert an interest in the Project’s effects on above and below ground historical, cultural and archaeological resources within the State of New Hampshire and the protection thereof. In their Joint Petition with the NHPA, the National Trust acknowledges that “For decades, the National Trust has worked throughout New Hampshire on preservation advocacy projects, and for the last thirty years, frequently in partnership with the New Hampshire Preservation Alliance.” Thus, the NHPA and National Trust duly indicate their intention to work together should their Joint Petition be granted. Given the shared interests with

The Sugar Hill Historic Museum, the Applicants request that these three organizations be grouped together.

59. In addition, the Applicants request that their participation in these proceedings be limited only to issues regarding historic, cultural and archaeological resources insofar as they relate to the Project. These organizations have demonstrated an interest and expertise in these specific areas only. To allow them to participate outside the scope of their respective expertise risks disrupting the orderly and prompt conduct of the proceedings.

D. Business Organizations

60. The Applicants do not object to the intervention of businesses or business related organizations in this proceeding. Such organizations are listed in Exhibit A and include incorporated businesses as well as groups and organizations with specific economic interests. Nonetheless, the Applicants request that the Committee, in its discretion, combine similarly situated parties into groups as illustrated in Exhibit A.

IV. Procedural Issues

61. In order to ensure the orderly conduct of the proceedings, and the timely processing of the Application, the Applicants request that certain procedures be implemented. In prior proceedings the Committee required that interveners comply with all limitations set forth in RSA 541-A:32(III) and Site 202.11(d). See, *Order on Motions to Intervene*, SEC Docket No. 2012-01, p. 11-12 (May 18, 2012).

62. Consistent with the limitations provided in RSA 541-A:32(III), the Applicants request that all parties included in each of the groups identified above be combined for the purposes of discovery, pursuant to Site 202.12(d), presentation of evidence and argument, and examination of witnesses. As the Committee has required in the past, the Applicants request that

each group be required to designate a spokesperson for purposes of discovery, presentation of evidence, and cross-examination.⁴

63. Given the volume of intervention requests in this docket and the importance of completing the Committee's review within the statutory period, the Applicants believe their proposals are reasonable and will significantly advance the effort to ensure the orderly conduct of the proceeding.

64. Moreover, as discussed previously, the Applicants believe that certain interests alleged by various petitioners are procedurally and substantively improper in this proceeding. Specifically, the Applicants object to SPNHF's alleged dispute over property rights concerning public roadway easements. SPNHF and the Applicants are currently litigating this issue before the Coös County Superior Court; SPNHF should not be allowed to attempt to re-litigate this issue in this proceeding. Therefore, should the Committee, in its discretion, grant SPNHF's petition, it should limit SPNHF's intervention to exclude this issue from the proceeding. To do otherwise would impermissibly expand the scope of this proceeding.

65. In addition, the Applicants object to the petitions of CLF, NHSC and others insofar as they allege an interest in the "renewable" characteristics of hydro power and the impacts of hydro power generation in Canada. Such issues are not relevant to this proceeding and allowing intervention on these premises would impermissibly expand the scope of this proceeding.

⁴ The Applicants ask that the Committee remind interveners that they are required to comply with the rules governing parties to the proceeding including, but not limited to, the format of documents pursuant to Site 202.06, the proper filing of documents pursuant to Site 202.07, and the computation of time pursuant to Site 202.08. To the extent that these rules are not followed, the Applicants request that the Committee exercise its discretion to further limit the participation of interveners as appropriate in order to ensure the prompt and orderly conduct of the proceedings.

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: February 26, 2016

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Certificate of Service

I hereby certify that on the 26th of February, 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

EXHIBIT A

The Applicants grouped Petitioners into the following categories using information supplied in the individual petitions to intervene as well as the Applicants' own resources. To the extent that information is supplied that irrefutably rebuts the Applicants' categorizations, the Applicants will defer to the Committee's judgment.

1. Abutting Property Owners and Non-Abutting Property Owners Within One Hundred Feet of the Project

1. Rodrigue and Tammy Beland
2. McKenna's Purchase Unit Owners Association
3. Donald and Betty Gooden
4. Bruce Ahern
5. David Schrier
6. Eric and Margaret Jones
7. Nancy Dodge
8. Elaine Olson and Eric Olson, individually and as co-trustees of the Eric Olson Revocable Trust, and Joshua and Elaine Olson, individually and as co-trustees of the Elaine Olson Revocable Trust
9. Elmer and Claire Lupton
10. Craig and Corinne Pullen
11. Rebecca Hutchinson
12. Mary Wellington
13. Charles and Cynthia Hatfield
14. Campbell McLaren
15. Russell and Lydia Cumbee
16. Jo Anne Bradbury
17. Eric and Barbara Meyer
18. Paul and Dana O'Hara
19. Kevin and Lisa Cini
20. Robert Thibault
21. Dennis Ford
22. Taras and Marta Kucman
23. James and Judy Ramsdell
24. Roderick and Donna McAllaster
25. Lynne Placey
26. Arlene Placey
27. Ken and Linda Ford
28. Carl and Barbara Lakes
29. Carol Currier
30. Kevin Spencer and Mark Lagasse
31. Susan Schibanoff
32. Lori and Jon Levesque
33. Virginia Jeffries
34. Robert Heath

35. Eric and Sandra Lahr
36. Bruce Adami and Robert Cote
37. Nigel Manley and Judy Ratzel
38. Kelly Normandeau
39. Laura Bonk
40. Bradley and Daryl Thompson
41. Walter Palmer and Kathryn Ting
42. Sally Zankowski
43. Bruce and Sondra Brekke
44. Mary and Peter Grote
45. Mary Lee
46. Rodney and Laura Felgate
47. Torin and Brian Judd
48. Gregory and Lucille Wolf
49. Erick, Jr. and Kathleen Berglund
50. Gerald Roy
51. Tim and Brigitte White
52. Robert Martin

2. Non-Abutting Property Owners Not Within One Hundred Feet of the Project

1. Nina and Elisha Gray
2. Kris Pastoriza
3. Alexandra and James Dannis
4. Elizabeth Terp
5. Philip and Joan Bilodeau
6. Frank and Kate Lombardi
7. Marsha Lombardi
8. Frederick Fits
9. Edward Piatek
10. Lawrence and Maxime Phillips
11. Michael Marino and Lee Ann Moulder
12. Wendy Doran
13. Jeanne Menard
14. Thomas N.T. Mullen
15. Robert and Joanna Tuveson
16. David Van Houten
17. Susan Percy
18. Dr. Deborah Warner
19. Mark and Susan Orzeck
20. Andrew Dodge
21. John Davidge
22. Lelah Sullivan and Stephen Buzzell
23. Weeks Lancaster Trust - Rebecca More
24. Tom Foulkes
25. Robert Craven

26. Peter Powell
27. Anita Giulietti
28. Richard McGinnis
29. Barbara and Robert Matthews
30. Sandra and Paul Kamins
31. Gail Beaulieu
32. Charles and Donna Jordan
33. Roderick Moore, Joseph Dunlap, Shawn Brady, and Christopher Thompson - The Heath Road Intervenors
34. James H. Page, Jr.
35. Maureen Quinn
36. Frank Pinter
37. Timothy and Rebecca Burbank, Edward Cenerizio, Deborah Corey, Matthew Steele
38. Linda Upham-Bornstein
39. E. Martin Kaufman, Janice Kaufman, Herman Lerner, Arthur Weinstein
40. Dixville Notch – Harvey Swell Location¹
41. The Webster Family

3. State Representatives

New Hampshire State Senators

1. Sen. Jeff Woodburn
2. Sen. Jeanie Forrester
3. Sen. Martha Fuller Clark
4. Sen. Molly Kelly

Coos County

5. Rep. Laurence M. Rappaport
6. Rep. John Fothergill
7. Rep. Robert L. Theberge
8. Rep. John E. Tholl, Jr.
9. Rep. Leon H. Rideout

Grafton County

10. Rep. Erin T. Hennessey
11. Rep. Linda Massimilla
12. Rep. Susan Ford

¹ The Applicants draw attention to the fact that multiple signatories to the Dixville Notch-Harvey Swell Petition to Intervene also petitioned the Committee for intervention in their individual capacities. The Applicants request that the Committee consider the propriety of such redundancies in considering individual and group petitions to intervene. Additionally, to the extent that petitioners have voluntarily grouped themselves, the Applicants request that such petitions be treated as a single petition.

13. Rep. Rick M. Ladd
14. Rep. Kevin Maes
15. Rep. Suzanne J. Smith
16. Rep. Mary R. Cooney
17. Rep. Travis Bennett
18. Rep. Jeffrey S. Shackett
19. Rep. Charles L. Townsend
20. Rep. Patricia Higgins
21. Rep. Sharon Nordgren
22. Rep. Richard Abel
23. Rep. George Sykes
24. Rep. Brad Bailey
25. Rep. Wendy A. Piper
26. Rep. Eric Johnson
27. Rep. Duane Brown
28. Rep. Stephen Darrow
29. Grafton County Commissioners

Carrol County

30. Rep. Gene G. Chandler
31. Rep. Thomas L. Buco
32. Rep. Karen C. Umberger
33. Rep. Edward A. Butler
34. Rep. Susan Ticehurst

Merrimack County

35. Rep. Mario Ratzki
36. Rep. Karen E. Ebel
37. Rep. David H. Kidder
38. Rep. Geoffrey Hirsch
39. Rep. Caroletta C. Alicea
40. Rep. Howard M. Moffett
41. Rep. George Saunderson
42. Rep. Mary Jane Wallner
43. Rep. Mel Myler
44. Rep. Stephen J. Shurtleff
45. Rep. Paul J. Henle
46. Rep. June M. Frazer
47. Rep. James R. MacKay
48. Rep. Helen Deloge
49. Rep. Christy D. Bartlett
50. Rep. David Doherty
51. Rep. David B. Karrick
52. Rep. Mary Stuart Gile

- 53. Rep. Clyde Carson
- 54. Rep. Dick Patten
- 55. Rep. Paula Bradley

Belknap County

- 56. Rep. Valerie Fraser

Strafford County

- 57. Rep. Wayne Burton
- 58. Rep. Judith T. Spang
- 59. Rep. William S. Baber
- 60. Rep. Len DiSesa
- 61. Rep. Peter W. Bixby
- 62. Rep. Thomas Southworth
- 63. Rep. James Verschueren
- 64. Rep. Janet Wall

Rockingham County

- 65. Rep. Robert R. Cushing
- 66. Rep. David A. Borden

Cheshire County

- 67. Rep. Marjorie J. Shepardson

Sullivan County

- 68. Rep. Lee Walker Oxenham

4. Towns and Town Governing Bodies

- 1. Town of Ashland Select Board
- 2. City of Berlin
- 3. Town of Bethlehem Planning Board
- 4. Town of Bethlehem Select Board
- 5. Town of Bridgewater
- 6. Town of Bristol
- 7. Town of Bristol Select Board
- 8. Town of Canterbury
- 9. Town of Colebrook
- 10. Town of Dalton Select Board
- 11. Town of Deerfield Board of Selectmen and Planning Board
- 12. Town of Easton

13. Town of Easton Planning Board
14. Town of Franconia
15. Town of Franconia Planning Board
16. City of Franklin
17. Town of Holderness
18. Town of Littleton
19. Town of Pembroke
20. Town of Plymouth
21. Town of Pittsburg
22. City of Manchester
23. City of Nashua
24. Town of New Hampton
25. Town of Northumberland
26. Town of Stewartstown
27. Town of Sugar Hill
28. Town of Whitefield
29. Town of Whitefield Planning Board
30. Town of Woodstock

5. Municipal Sub-Units

1. Ashland Conservation Commission
2. Town of Ashland Water and Sewer Department
3. Bethlehem Conservation Commission
4. Dalton Conservation Commission
5. Deerfield Conservation Commission
6. Easton Conservation Commission
7. Franconia Conservation Commission
8. Holderness Conservation Commission
9. The Lafayette School Board
10. North Country Scenic Byways Council
11. Pemigewasset River Local Advisory Committee

6. Non-Governmental Organizations

1. Society for the Protection of New Hampshire Forests
2. Appalachian Mountain Club
3. Conservation Law Foundation
4. New Hampshire Sierra Club
5. Ammonoosuc Conservation Trust
6. Sugar Hill Historical Museum
7. New Hampshire Preservation Alliance and National Trust for Historic Preservation
8. No Northern Pass Coalition Board of Directors - Peter Martin

7. Businesses and Organizations With Economic Interests

1. Liebl Printing and Design

2. Garl and Mill Timberframes
3. Cate Street Capital/Burgess Biopower
4. International Brotherhood of Electrical Workers
5. BAE Systems, Dyn, Inc. Globe Manufacturing, Wilcox Industries Corp.
6. New England Ratepayers Association
7. Coos County Business and Employers Group
8. Dixville Capital, LLC and Balsams Resort Holdings, LLC
9. Wagner Forest Management
10. North Country Chamber of Commerce
11. Greater Rochester Chamber of Commerce
12. Greater Nashua Chamber of Commerce
13. Greater Manchester Chamber of Commerce

**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**

March 18, 2016

ORDER ON PETITIONS TO INTERVENE

I. Background

On October 19, 2015, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively Applicant) submitted an Application to the New Hampshire Site Evaluation Committee (Committee) for a Certificate of Site and Facility (Application) to construct a 192-mile transmission line. The transmission line, sometimes referred to herein as the Project, is proposed to have a capacity rating of up to 1,090 MW, and to run through New Hampshire from the Canadian border in Pittsburg to Deerfield.

On November 2, 2015, pursuant to RSA 162-H:4-a, the Chairman of the Committee appointed a Subcommittee (Subcommittee) to consider the Application.

The deadline for filing motions to intervene in this docket was February 5, 2016. The Subcommittee received over 160 petitions to intervene.

On February 26, 2016, the Applicant filed a Response and Objection to Certain Petitions to Intervene. The Applicant filed a revised Exhibit A to its Response and Objection on March 4, 2016. On February 26, 2016, the Applicant also filed a separate objection to New England Power Generators Association's Petition for Intervention.

The Subcommittee received numerous replies to the Applicant's Response and Objection to Certain Petitions to Intervene.

II. Intervention

A. Standard for Intervention

The New Hampshire Administrative Procedure Act provides that an administrative agency must allow intervention when:

- (a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least 3 days before the hearing;
- (b) The petition states facts demonstrating that the petitioner's rights, duties, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervener under any provision of the law; and
- (c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

See RSA 541-A:32, I. The statute also permits the presiding officer to allow intervention "at any time upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings." RSA 541-A:32, II. The Committee's rules contain similar provisions. *See* N.H. CODE ADMIN. R. ANN. Site 202.11 (b)-(c).

Pursuant to RSA 162-H:4, V, the presiding officer is authorized to rule on petitions for intervention. The Administrative Procedure Act and our procedural rules also allow the presiding officer to place limits on an intervenor's participation. *See* RSA 541-A:32, III; N.H. CODE ADMIN. R. ANN. Site 202.11(d). The presiding officer may limit the issues pertaining to a particular intervenor, limit the procedures in which a particular intervenor may participate, or combine intervenors and other parties for the purposes of the proceeding so long as the limitations placed on intervenors do not prevent the intervenor from protecting an interest that formed the basis of intervention. *See* N.H. CODE ADMIN. R. ANN. Site 202.11(d).

B. The Motions to Intervene

The Subcommittee received Petitions to Intervene from the following types of entities and individuals: (i) local governmental entities including towns, municipal sub-units, conservation commissions, county commissions, the Pemigewasset River Local Advisory Committee, and the Lafayette School Board; (ii) individuals and groups of individuals; (iii) non-governmental organizations; (iv) businesses and organizations with economic interests; and (v) government officials including state representatives and senators, as well as Grafton County Commissioner, Rick Samson; and (vi) New England Power Generators Association, Inc. This Order will address each petition within each identified group.

1. Local Government Entities

a. Towns, Municipal Sub-Units and Conservation Commissions

The Subcommittee received petitions to intervene from the following towns, and municipal sub-units:

- Town of Pittsburg (Pittsburg);
- Town of Clarksville (Clarksville);
- Town of Stewartstown (Stewartstown);
- Town of Colebrook (Colebrook);¹
- Town of Northumberland (Northumberland);
- Town of Whitefield – Board of Selectmen; Planning Board (Whitefield);
- Town of Dalton – Board of Selectmen; Conservation Commission (Dalton);

¹ Colebrook's Petition to Intervene was filed after the deadline set forth by the Procedural Order. However, the Applicant did not object to the Town's late filed Petition. In addition, acceptance of the late filed Petition is in the public interest and will not disrupt the orderly and efficient resolution of matters before the Subcommittee. *See* N.H. CODE ADMIN. R. ANN. Site 202.15. Therefore, the Town of Colebrook's Petition is accepted and considered in this docket.

- Town of Bethlehem – Board of Selectmen; Planning Board; Conservation Commission (Bethlehem);
- Town of Littleton (Littleton);
- Town of Sugar Hill (Sugar Hill);
- Town of Franconia – Board of Selectmen; Planning Board; Conservation Commission (Franconia);
- Town of Easton – Board of Selectmen; Planning Board; Conservation Commission (Easton);
- Town of Woodstock (Woodstock);
- Town of Holderness (Holderness);
- Town of Plymouth (Plymouth);
- Town of Ashland - Board of Selectmen; Conservation Commission; Water & Sewer Department (Ashland);
- Town of Bridgewater (Bridgewater);
- Town of New Hampton (New Hampton);
- Town of Bristol (Bristol);
- Town of Canterbury (Canterbury);
- City of Concord (Concord);
- Town of Pembroke - Board of Selectmen and Conservation Commission (Pembroke);
- Town of Deerfield - Board of Selectmen and Planning Board; Conservation Commission (Deerfield);
- City of Franklin (Franklin);
- City of Berlin (Berlin);
- City of Manchester (Manchester); and
- City of Nashua (Nashua).

Many of the local government entities have common concerns. Those concerns are best addressed on a geographic basis. Some of the local government entities that have moved to intervene will host a portion of the Project. Others will be in close proximity to the Project but the Project will not fall within town boundaries. This Order will address the motions to intervene filed by local government entities on a geographic basis.

i. Towns, Municipal Sub-Units and Conservation Commissions Crossed by the Project.

In general, the towns, planning boards, and conservation commissions along the northern portion of the Project where it will be constructed within new and previously existing rights-of-way are concerned about the effect of the Project on the environment, aesthetics, economy and tourism, community, historic sites, property values, and health of their residents.² The towns that are located within the middle portion of the Project are concerned about the effects of the underground construction on the Project and its effects on the natural environment, wetlands and rivers, wells and waste water facilities, and access to utilities structures constructed under roads. The towns that are located within the southerly overhead portion of the Project are concerned about the effects of the Project on wetlands, safety, tourism and the economy, land use, community character, property values, aesthetics, natural environment, and public health and

² This northern portion of the Project contains the following two underground sections: (i) Route 3 crossing between the towns of Pittsburg and Clarksville (0.7 miles), and (ii) a portion of the line from Clarksville to Stewartstown (7.5 miles). The interests and concerns raised by the towns of Pittsburg, Clarksville, and Stewartstown pertain to overhead sections of the Project. In addition, approximately 3.1 miles of underground line will be located in the Town of Bethlehem. The majority of the concerns raised by the Town of Bethlehem pertain to the 4.9 mile overhead portion of the line and transition station #5.

safety.³ Each of the local government entities are concerned with the orderly development of their regions and wish to present their views in this regard pursuant to RSA 612-H:16, IV (b).

Many towns have sought to intervene through their selectboards. However, some towns also seek intervention through their planning boards, conservation commissions, or other governmental sub-units.

The Applicant did not object to the motions to intervene filed by the various towns and town sub-units. The Applicant suggests, however, that all towns, cities, and planning boards should be combined in one group of intervenors and that all conservation commissions should be combined in another.

Under RSA 162-H:16, IV(b), the Subcommittee must give due consideration to the views of municipal and regional planning commissions and municipal governing bodies. *See* RSA 162-H:16, IV(b). RSA 541-A:39, I, further requires the Subcommittee to afford municipalities a reasonable opportunity to submit data, views, or comments with respect to the issuance of any permit, license or any other action within its boundaries. Keeping this statutory authority in mind, the petitions to intervene submitted by the governing bodies of the following towns and cities are granted: Pittsburg, Clarksville, Stewartstown, Colebrook, Northumberland, Whitefield, Dalton, Bethlehem, Sugar Hill, Franconia, Easton, Woodstock, Plymouth, Ashland, Bridgewater, New Hampton, Bristol, Canterbury, Concord, Pembroke, Deerfield, and Franklin.

The plain language of our enabling statute, RSA 162-H:16, IV (b), requires the Committee to consider the views of both local planning boards and municipal governing bodies.

³ Although approximately 2,100 feet of the Project in the Town of Bridgewater will be underground, the majority of the line within the town (2 miles) will be overhead. Bridgewater's stated concerns pertain mainly to the overhead portion of the line.

Petitions to intervene submitted by the planning boards of the following Towns are granted:
Whitefield, Bethlehem, Franconia, Easton, and Deerfield.

Pursuant to RSA 36-A:2, a city or town may choose to create a conservation commission "for the proper utilization and protection of the natural resources and for the protection of the watershed resources" of the municipality. The statutory authority of municipal conservation commissions includes: research of local land and water areas; coordination of unofficial bodies organized for similar purposes; the publication of books, maps and charts relevant to its work; maintain an index of open space, natural aesthetic and ecological areas within the town; obtaining information concerning the proper utilization of such areas. *See* RSA 36-A:2. In addition a conservation commission is charged with recommending a program for the protection, development and better utilization of such natural, aesthetic and ecological areas. *Id.* The statutory obligations of a municipal conservation commission include planning functions pertaining to the protection of the natural environment and watershed resources. *Id.* Pursuant to RSA 162-H:16, IV(b), the Subcommittee is required to give due consideration to the views of such commissions when determining whether the Project will interfere with the orderly development of the region. In addition, the conservation commissions that filed requests to intervene in this docket possess knowledge about the conservation lands and environment surrounding the Site. Such knowledge may assist the Subcommittee with making its determination. Therefore, the petitions to intervene filed by the conservation commissions of the following Towns are granted: Dalton, Bethlehem, Franconia, Easton, Ashland, Pembroke and Deerfield.

The Subcommittee also received a petition to intervene from the Water & Sewer Department of the Town of Ashland. The department demonstrated that the Project may affect

well fields and the wastewater treatment facility. This municipal sub-unit has particular knowledge that may assist the Subcommittee in understanding the effect of the Project on Ashland's well fields and wastewater treatment facility. The department's intervention is in the interests of justice and it will not impair the orderly and prompt conduct of the proceedings. The petition to intervene filed by the Water & Sewer Department of the Town of Ashland is granted.

In order to avoid duplicative arguments and ineffective process, it is necessary to combine the intervenors into logical groups with similar interests and positions. While every intervenor has some characteristics that make it unique, there are common interests and positions expressed by each. That is true from municipality to municipality, and also within municipalities, where Select Boards, Planning Boards, and Conservation Commissions appear to agree with each other. Accordingly, the following intervenors shall be consolidated in this proceeding:

- **Municipal Group 1, (Northern Section)** – Pittsburg, Clarksville, Stewartstown, Colebrook, Northumberland, Whitefield (Board of Selectmen and Planning Board), Dalton (Board of Selectmen and Conservation Commission), Bethlehem (Board of Selectmen, Planning Board and Conservation Commission), and Littleton;
- **Municipal Group 2, (Middle Section)** – Sugar Hill, Franconia (Board of Selectmen, Planning Board, and Conservation Commission), Easton (Board of Selectmen, Planning Board, and Conservation Commission), Woodstock, and Plymouth;
- **Municipal Group 3, (Southern Section)** – Holderness (Board of Selectmen), Ashland (Board of Selectmen, Conservation Commission and Water & Sewer Department), Bridgewater, New Hampton, Bristol, Canterbury, Concord, Pembroke (board of Selectmen and Conservation Commission), and Deerfield (Board of Selectmen, Planning Board and Conservation Commission).

Each municipal group is consolidated as a single party. Each of the governmental entities in each group may file separate testimony (if they choose). Each municipal group, however, must designate a single spokesperson for the purposes of filing pleadings, conducting discovery, and

for examining witnesses at evidentiary hearings. This will assure the prompt and orderly conduct of the proceedings.

The City of Franklin is in a unique position with respect to the above listed municipalities and government sub-units. The overhead portion of the Project crosses the City of Franklin, the Applicant seeks to construct a converter terminal within Franklin, and Franklin is generally supportive of the Project. Municipal Groups 1, 2, and 3, in contrast, generally oppose some or all of the entire Project. Franklin thus cannot be combined with the other municipalities in this docket. The City of Franklin is allowed to intervene separately, as full party in these proceedings.

ii. Abutting Towns

The Subcommittee also received petitions to intervene from the Towns of Littleton and Holderness. These two towns acknowledge that the Project will not cross their borders. They state, however, that the Project will be constructed in close proximity and will be visible in various places in town. The towns assert that the Project may have an adverse effect on tourism and on each towns' character, aesthetics, land use, employment, and property values.

Littleton and Holderness have demonstrated sufficient interests, privileges, and rights that may be affected by construction and operation of the Project. The Town of Littleton, the Town of Holderness, and the Holderness Conservation Commission petitions to intervene are granted. As with the municipalities discussed above, the Holderness Conservation Commission's position is consistent with that of the Town of Holderness. In addition, the interests of Littleton and Holderness are similar to the towns which they abut. Therefore, Littleton and Holderness shall be consolidated with these towns.

To ensure orderly development of these proceedings and considering that concerns raised by Littleton relate to an overhead transmission line in the northern part of the Project, Littleton

shall be consolidated with Municipal Group 1 (Northern Section) intervenors. Holderness (including the Conservation Commission) shall be consolidated with the Municipal Group 3 (Southern Section) intervenors.

iii. Non-Abutting Municipalities

The Cities of Nashua, Manchester, and Berlin request permission to intervene in these proceedings. Nashua asserts that it would like to intervene to ensure that \$200 million of the Forward New Hampshire Fund promised by the Applicant will be directly distributed to municipalities as opposed to the state. Manchester also asserts its interests in the fund, and claims that its businesses and residents have a direct interest in reducing the costs of electricity and in other benefits promised by the Applicant. Berlin claims the following rights, interests, and privileges that will be affected by the Project: (i) the upgrades of the Coos Loop will directly affect Berlin; (ii) residents of Berlin will directly benefit from the proposed job creation in the North Country; and (iii) Berlin residents will benefit from the anticipated increases in property tax revenues flowing from the Project.

Apart from stating that their direct economic interest in the money that will be granted by the Forward New Hampshire Fund and other general benefits that may be associated with the Project, Nashua and Manchester fail to demonstrate that they have a right, interest, or privilege that will be affected by these proceedings. Interest in an economic stimulus plan and other indirect benefits of the Project is not specific enough to warrant intervention in this docket. Those interests are general in nature and would pertain to every city and town in the State of New Hampshire. The motions to intervene filed by Nashua and Manchester are denied.

In contrast, Berlin has demonstrated that its direct interests, privileges, and rights may be affected by construction and operation of the Project. The Project may directly affect the

economy of Berlin by upgrading the Coos Loop and providing opportunities for the entry of new businesses and industries in the region. Berlin's petition to intervene is granted subject to the conditions set forth in section II B 4 b below.

b. Grafton County Commissioners and Coos County Commissioner Rick Samson

The Grafton County Commissioners point out that 63 miles of the Project will lie within Grafton County.⁴ The Grafton County Commissioners further note many that towns within the county will be crossed by the Project and they assert those towns will suffer the following negative effects: (i) lower property values and the consequent effect on the tax base ; (ii) health and safety issues due to the electro-magnetic field; (iii) destruction and disturbance of private land and property; (iv) loss of style of life; (v) impacts on view sheds and aesthetics; (vi) noise; (viii) dangers associated with the fall radius of the towers; (ix) effect on economy; and (x) expansion of a PSNH easement use beyond what was originally intended. Finally, the Commissioners assert that there will be "major destruction" in the Main Street areas in Franconia, Woodstock, and Plymouth. They seek intervention so that they can represent and address these concerns.

Rick Samson is Coos County Commissioner, District Three. He asserts that the following towns will be affected by the Project in his district: Pittsburg, Clarksville, Stewartstown, Dummer, Stark, and Northumberland. He also asserts that the Project will affect the unincorporated places of Dixville and Millsfield that are located in his district.

⁴ 11 of those miles will be overhead lines in the following towns: (i) Bethlehem – 4.9 miles; (ii) Bridgewater – 2 miles; (iii) Ashland – 1.6 miles; and (iv) Bristol – 2.5 miles.

The Applicant objected to the petitions to intervene filed by Rick Samson and the Grafton County Commissioners. If they are granted intervenor status, the Applicant suggests that the Subcommittee combine their participation with representatives of New Hampshire legislature.

County commissions act as the executive officers of county government. Among other responsibilities, they are charged with the governing, planning, and land use in unincorporated areas. *See* RSA 28:7-a and RSA 28:7-b. As executive officers, county commissioners are involved in country-wide economic development issues and issues pertaining to recreation and the environment.

Under RSA 162-H:16, IV(b), the Subcommittee must give due consideration to the views of municipal and regional planning commissions and municipal governing bodies. County commissions and commissioners play a role similar to that of a municipal or regional planning agency. Therefore, the Petitions to intervene filed by the Grafton County Commissioners and Commissioner Samson are granted. To ensure the prompt and orderly development of the proceedings, their participation shall be consolidated as one group of intervenors.

c. Lafayette School Board

The Lafayette School Board asserts that it is concerned about the safety of its students, access to the school during the construction period, and possible deviation from normal bus routes.

The Applicant objected to the petition to intervene filed by Lafayette School Board. In the alternative, the Applicant suggested that the Subcommittee should combine the School Board's participation with municipalities that filed petitions to intervene in this docket.

The petition filed by the Lafayette School Board is denied. The concerns asserted by the Board are essentially concerns arising from potential changes in traffic routes during

construction of the Project. This concern is not unique to the Lafayette School Board. It is a common concern to the public at large and is too general to warrant intervention.

2. Individual Parties

The interests, rights and duties asserted by individual parties in this docket vary depending on where the parties reside in relation to the Project. Generally, the individuals that reside in close proximity to the overhead portion of the Project raise different concerns from the individuals that reside in close proximity to the underground portion of the Project. Similarly, individuals that reside or own real estate that abuts the Project raise different concerns compared to the parties that own real estate some distance from the Project. The individuals seeking intervenor status can be separated into six general categories: (i) abutting property owners residing⁵ along the route from Clarksville through Dalton⁶; (ii) non-abutting property owners residing in the area of Clarksville to Bethlehem;⁷ (iii) abutting property owners residing along the route in Bethlehem through Plymouth;⁸ (iv) non-abutting property owners residing in the area from Littleton to Plymouth;⁹ (v) abutting property owners residing along the route from Ashland to Deerfield;¹⁰ (vi) non-abutting property owners residing in the area from Ashland to Deerfield.¹¹

⁵ The term “residing,” as used in this section, includes individuals who own real estate or businesses in identified towns and cities.

⁶ Clarksville, Stewartstown, Dummer, Stark, Northumberland, Whitefield, and Dalton.

⁷ Clarksville, Stewartstown, Stark, Lancaster, Whitefield, Dalton, and Bethlehem.

⁸ Bethlehem, Franconia, Easton, and Plymouth.

⁹ Easton and Sugar Hill.

¹⁰ Ashland, Northfield, Canterbury, Concord, Allenstown, and Deerfield.

¹¹ Holderness, New Hampton, Bridgewater, Canterbury, and Deerfield.

a. Abutting Property Owners: Clarksville through Dalton

The Subcommittee received petitions to intervene from the following abutting property owners residing in the Towns of Clarksville, Stewartstown, Dummer, Stark, Northumberland, Whitefield, and Dalton: (i) Charles and Donna Jordan (owners of six acres of land along the Old County Road in Clarksville); (ii) Sally A. Zankowski (owner of an early 1800th farmhouse at 147 Route 145 in Clarksville); (iii) Jon and Lori Levesque (1459 Bear Rock Road, Whitefield); (iv) Roderick and Donna McAllaster (Bear Rock Road, Whitefield); (v) Lynne Placey (Bear Rock Road, Whitefield); (vi) Arlene Placey (Bear Rock Road, Whitefield); (vii) Brad and Daryl Thompson (Bear Rock Road, Whitefield); (viii) David Schrier (owner of real estate 200 yards south of the Clarksville town line that abuts Old County Road); (ix) Nancy L. Dodge (157 Creampoke Road, Whitefield); (x) Elaine V. Olson, Eric M. Olson, Joshua Olson, Elaine V. Olson individually and as trustees of the Eric M. Olson Revocable Trust and Elaine V. Olson Revocable Trust (Dummer); (xi) Kevin Spencer (338 Percy Road, Stark); (xii) Rodrigue J. and Tammy L. Beland (Route 110, Stark); (xiii) Susan E. Percy for Percy Summer Club (Stark); (xiv) Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC (338 Percy Road, Stark); (xv) Robert Heath (76 Potter Road¹², Stark); (xvi) R. Eric Jones and Margaret J. Jones (John Silver Road, Northumberland); (xvii) Elmer C. Lupton and Claire C. Lupton (75 Newell Lane, Whitefield); (xviii) Charles and Cynthia Hatfield (41 Hartfield Drive, Whitefield); (xix) Mary Boone Wellington (Whitefield); (xx) Bruce and Sondra Brekke (99 Ramble On Road, Whitefield); (xxi) Donald and Betty Gooden (76 Lancaster Road, Whitefield); (xxii) Tim and

¹² Mr. Heath did not state in his petition to intervene that his property abuts the Project. The Applicant, however, identified him as abutting property owner.

Brigitte White (76 Lancaster Road, Whitefield); and (xxii) James and Judy Ramsdell (1049 Whitefield Road, Dalton).

The Applicant did not object to petitions to intervene filed by abutting property owners in the Towns of Clarksville, Stewartstown, Dummer, Northumberland, Whitefield, and Dalton. The Applicant suggested, however, that all abutting property owners should be combined. As to the residents of the Town of Stark, the Applicant did not object to the petition filed by Mr. Heath. The Applicant did not address the petition to intervene filed by Kevin Spencer. It identified Susan Percy as a non-abutting property owner. Ms. Percy responded by clarifying that she represents the interests of Percy Summer Club, which owns real estate that is encumbered by the right-of-way the Applicant seeks to utilize for the construction of the Project. The Applicant did not rebut Ms. Percy's allegations.

Concerns raised by the abutting property owners residing in these towns vary, however, based on whether their property abuts the underground or overhead portion of the Project. Property owners whose property abuts underground portions of the Project assert that they are concerned about the effect of the construction of the Project on their properties. Those concerns include disruption of the historic character of some of the properties, integrity of water supplies, and the value of real estate. Many of the individuals in this category challenge the Applicant's right to construct the Project under the public road right-of-way.

The property owners whose property abuts the overhead portion of the Project are concerned about the effect of the Project on aesthetics, views from their properties, value of their properties, public health and safety, and the general enjoyment of their lives. Many of the individuals in this category also challenge the Applicant's rights within the existing deeded rights-of-way.

As residential abutters, these parties have a profound and substantial interest in the outcome of these proceedings. There is no issue that any residential abutter should be prohibited from addressing. Their ownership and residence on land abutting the proposed Project requires that they be permitted to fully participate. However, as indicated above, concerns raised by these parties varies depending on where their properties abut underground or overhead portions of the Project. Therefore, they cannot be combined in one group of intervenors. Therefore, petitions to intervene filed by the following residents are granted and they are combined into the following groups of intervenors to ensure the prompt orderly conduct of these proceedings:

- **Group 1 - Clarksville-Stewartstown Abutting Property Intervenors (underground portion of the Project):**

Clarksville - Charles and Donna Jordan; and Sally A. Zankowski;

Whitefield - Jon and Lori Levesque; Roderick and Donna McAllaster; Lynne Placey; Arlene Placey; Brad and Daryl Thompson; David Schrier; and Nancy L. Dodge.

- **Group 2 - Dummer, Stark, Northumberland, Whitefield, and Dalton Abutting Property Intervenors (overhead portion of the Project):**

Dummer - Elaine V. Olson, Eric M. Olson, Joshua Olson, Elaine V. Olson individually and as trustees of the Eric M. Olson Revocable Trust and Elaine V. Olson Revocable Trust;

Stark - Kevin Spencer; Rodrigue J. and Tammy L. Beland; Susan E. Percy for Percy Summer Club; Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC; and Robert Heath;

Northumberland - R. Eric Jones and Margaret J. Jones;

Whitefield - Elmer C. Lupton and Claire C. Lupton; Charles and Cynthia Hatfield; Mary Boone Wellington; Bruce and Sondra Brekke; Donald and Betty Gooden; and Tim and Brigitte White.

Dalton - James and Judy Ramsdell.

Each individual abutter is permitted to file pre-filed testimony. However, each group must designate a single spokesperson for the purposes of filing pleadings, conducting discovery and for examination at evidentiary hearings.

b. Non-Abutting Property Owners: Clarksville through Bethlehem

The Subcommittee received petitions to intervene from the following non-abutting property owners residing in Clarksville, Stewartstown, Stark, Lancaster, Whitefield, Dalton, and Bethlehem: (i) Robert R. Martin (14 Tower Road, Clarksville); (ii) Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady, and Christopher Thompson (Heath Road, Stewartstown); (iii) E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents); (iv) Mark W. Orzek and Susan Orzek (Stark); (v) John W. Davidge for Prospect Farm-Lancaster, LLC (Lancaster); (vi) Linda Upham-Bornstein, PhD (Lancaster); (vii) Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust (Lancaster); and (viii) Richard M. McGinnis (Lancaster); (ix) Frederic P. Fitts (22 Knothole Road, Whitefield); (x) Gerald and Vivian Roy (178 Forest Lake Road, Whitefield); (xi) Edward A. Piatek (129 Elm Street, Whitefield); (xii) Frank and Kate Lombardi (101 Elm Street, Whitefield); (xiii) Marsha J. Lombardi (111 Elm Street, Whitefield); (xiv) Wendy Doran (91 Twin Mountain Road, Whitefield); (xv) Alexandra M. Dannis and James G. Dannis (Dalton); (xvi) David Van Houten (649 Cherry Valley Road, Bethlehem)¹³; (xvii) Andrew D. Dodge (233 South Road, Bethlehem).

Although the distance between the Project and real estate owned by individuals who filed petitions to intervene in this docket varies, all of the parties asserted that they will have a view of

¹³ Mr. Van Houten asserts that he was going to purchase a 44-acre lot that will be crossed by the Project. The Subcommittee did not receive any information that would indicate that Mr. Houten indeed purchased said lot. Therefore, Mr. Houten is not considered as an abutting property owner in this docket.

the Project from their properties. They also assert that they are concerned about the impact of the Project on health, aesthetics, views, property values, and their style of life. They also challenge the Applicant's right to construct the Project within the existing rights-of-way.

The Applicant does not object to petitions to intervene filed by Robert Martin and Gerald Roy. The Applicant asserts, however, that petitions filed by other people residing in this region should be denied. In the alternative, the Applicant requests that their participation be combined with that of other non-abutting property owners.

These non-abutting property owners have expressed a combination of interests that may be affected by the outcome of these proceedings. Their petitions to intervene are granted. In order to assure the orderly conduct of these proceedings and to avoid duplication of arguments, however, it is necessary to combine the following non-abutters as a single intervenor group in this proceeding:

- Robert Martin;
- Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady, and Christopher Thompson;
- E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents);
- Mark W. Orzek and Susan Orzek;
- John W. Davidge for Prospect Farm-Lancaster, LLC;
- Linda Upham-Bornstein;
- Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust;
- Richard M. McGinnis;
- Frederic P. Fitts;
- Gerald and Vivian Roy;
- Edward A. Piatek;
- Frank and Kate Lombardi;
- Marsha J. Lombardi;
- Alexandra M. Dannis and James G. Dannis;
- David Van Houten;
- Wendy Doran; and
- Andrew D. Dodge.

Each non-abutter may submit testimony. However, the non-abutters shall designate a single spokesperson for the purposes of filing pleadings, conducting discovery and for examination at evidentiary hearings.

c. *Abutting Property Owners: Bethlehem – Plymouth.*

The Subcommittee received petitions to intervene from the following abutting property owners residing in the Towns of Bethlehem, Franconia, Easton, and Plymouth: (i) Nigel Manley and Judy Ratzel (Route 18, Bethlehem); (ii) Russel and Lydia Cumbee (1719 Easton Road, Franconia); (iii) Walter Palmer and Kathryn Ting (1900 Easton Road, Apartment 5, Franconia); (iv) G. Peter and Mary S. Grote (1437/1375 Easton Road, Franconia); (v) Paul and Dana O'Hara (68 Church Street, Franconia); (vi) Virginia Jeffryes (92 Church Street, Franconia); (vii) Carol Dwyer (100 Church Street, Franconia); (viii) Gregory and Lucille Wolf (214 Church Street, Franconia); (ix) Susan Schibanoff (25 Academy Street, Franconia); (x) Frank Pinter (32 Academy Street, Unit 4, Franconia); (xi) Ken and Linda Ford (257 Main Street (Route 18), Franconia); (xii) Campbell McLaren, M.D. (50 Gibson Road, Easton); (xiii) Eric and Barbara Meyer (Route 116, Easton); (xiv) Robert W. Thibault (Route 116, Easton); (xv) Dennis Ford (1544/1549 Easton Valley Road, Easton); (xvi) Carl Lakes and Barbara Lakes (18 Loop Road, Easton); and (xvii) Bruce D. Ahern (503 Daniel Webster Highway, Plymouth).

Some of these individuals expressed some concerns specific to the character of their property. In general, however, these property owners all express similar concerns about the effect of the Project and construction of the Project on the integrity of their homes, wells, property values, access to their property, noise, road integrity, health and safety, and enjoyment of life. They also challenge the Applicant's right to construct the Project under the public rights-of-way abutting their properties.

The Applicant did not object to the petitions to intervene filed by the abutting property owners residing in the Towns of Bethlehem, Franconia, Easton, and Plymouth. The Applicant objected, however, to the petition filed by Frank Pinter on the grounds that Mr. Pinter does not reside within 100 feet of the Project.

The owners of the property that abuts the Project have a specific and substantial interest in the outcome of these proceedings. These proceedings directly affect their interests, rights and privileges. The petitions to intervene filed by the following individuals are granted:

- Nigel Manley and Judy Ratzel;
- Russel and Lydia Cumbee;
- Walter Palmer and Kathryn Ting;
- G. Peter and Mary S. Grote;
- Paul and Dana O'Hara;
- Virginia Jeffries;
- Carol Dwyer;
- Gregory and Lucille Wolf;
- Susan Schibanoff;
- Ken and Linda Ford;
- Campbell McLaren, M.D.;
- Eric and Barbara Meyer;
- Robert W. Thibault;
- Dennis Ford;
- Carl Lakes and Barbara Lakes; and
- Bruce D. Ahern.

As to the petition filed by Frank Pinter, it is unclear whether his property, in fact, abuts the Project. Neither Mr. Pinter nor the Applicant submitted documentation explaining the location of Mr. Pinter's property as it relates to the Project. It is clear from Mr. Pinter's petition, however, that he is concerned about the same effects of the Project on his property as the other abutting property owners. Taking into consideration his statement that his property abuts the Project and the lack of evidence demonstrating otherwise, Mr. Pinter's petition to intervene is granted. In order to ensure the orderly development of proceedings in this docket, these parties,

including Mr. Pinter, are combined into a single group of intervenors. Each of these abutters may submit testimony. However, the intervenor group shall designate a single spokesperson for the purposes of filing pleadings, conducting discovery and for examination of witnesses at evidentiary hearings.

d. Non-Abutting Property Owners: Bethlehem – Plymouth

The Subcommittee received petitions to intervene from the following non-abutting property owners residing in the Towns of Easton and Sugar Hill: (i) Robert B. Craven (777 Paine Road, Easton); (ii) Kris Pastoriza (294 Gibson Road, Easton); (iii) James H. Page, Jr. (Easton)¹⁴; (iv) Lee Sullivan and Stephen Buzzell; and (v) Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, and Matthew Steele individually and as owners of 41 Dyke Road, LLC.

Mr. Craven asserts that he is retired with an advanced degree in electrical engineering. He claims that he possesses a level of expertise and knowledge that may assist the Subcommittee with evaluation of the effect of the Project on public health. He also asserts that he was a two-term selectman in the Town of Easton and has a long-term interest in the Town and the welfare of its residents. Ms. Pastoriza asserts that she has a deep level of expertise in the watershed and its associated environment and historic resources of Easton. She further asserts that she authored the Nomination of the Ham Branch Watershed in Easton to the New Hampshire Rivers Management and Protection Program and its supplement. She also asserts that she co-authored two submissions to the Section 106 historic review. She concludes that her knowledge and expertise may assist the Subcommittee with reaching its decision. Mr. Page asserts he has

¹⁴ Mr. Page also owns a real estate in the Town of Deerfield. He does not assert that his property will abut or will be in close proximity to the Project. Instead, he expresses general concerns about the effect the Project will have on the Town of Deerfield.

significant experience in construction of powerlines and underground utility projects and his knowledge and experience will be helpful for the Subcommittee.

Lee Sullivan and Stephen Buzzell, Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, and Matthew Steele assert that the Project will be located in close proximity to the property owned by them and that the Project will have adverse effects on value of their property, the environment, and their style and enjoyment of life. They also assert that the Project will overburden the easement.

The Applicant objects to the intervention of these parties. The Applicant identifies Mr. Craven, Ms. Pastoriza, Mr. Page, and Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, and Matthew Steele as property owners beyond 100 hundred feet from the route and objected to their intervention. In the alternative, the Applicant requested that the Subcommittee combine their participation with that of other non-abutting property owners.

Mr. Craven, Ms. Pastoriza, and Mr. Page base their case for intervention on levels of expertise and knowledge that may be helpful to the Subcommittee in evaluating the Project. They do not demonstrate that they have a right, duty, privilege or other substantial interest that is affected by these proceedings. Therefore, the petitions to intervene filed by Mr. Craven, Mr. Pastoriza and Mr. Page are denied.

The records reveal that that Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, and Matthew Steele, individually and as owners of 41 Dyke Road, LLC, own real estate that, while not abutting the Project, is located in close proximity to the Project and may be affected by construction and operation of the Project. Their petitions to intervene are granted. However, they share similar interests and concerns. Therefore, to ensure the orderly conduct of these proceedings, the following individuals are combined into a single group of

intervenors for the purpose of participation in this docket: Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, and Matthew Steele. Each of these non-abutters may submit testimony, but the intervenor group shall designate a single spokesperson for the purposes of filing pleadings, conducting discovery and for examination at evidentiary hearing.

e. Abutting Property Owners: Ashland – Deerfield

The Subcommittee received petitions to intervene from the following abutting property owners residing in Ashland, Northfield, Canterbury, Allenstown, and Concord: (i) Carol Currier (70 Cedar Lane, Ashland); (ii) Mary A. Lee (93 Fiddler’s Choice Road, Northfield); (iii) Craig and Corinne Pullen (63 Old Schoolhouse Road, Canterbury (Windswept Farm)); (iv) McKenna’s Purchase Unit Owners Association (Concord); (v) Taras and Marta Kucman (12 Brookwood Drive, Concord); (vi) Kelly Normandeau (56 Sanborn Road, Concord); and (vii) Laura M. Bonk, MS, MBA (250 Deerfield Road, Allenstown).

The Subcommittee received petitions to intervene from the following abutting property owners who reside in Deerfield: (i) Philip H. Bilodeau and Joan C. Bilodeau - 140 Nottingham Road; (ii) Erick B. Berglund Jr. and Kathleen A. Berglund - 23 Nottingham Road; (iii) Rebecca Hutchinson - 30 Lang Road; (iv) Torin Judd and Brian Judd - 96-A Mount Delight Road; (v) Jo Anne Bradbury - 30 Thurston Pond Road; (vi) Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership; (vii) Jeanne M. Menard for Peter F. Menard and Anne K. Burnett; (viii) Kevin and Lisa Cini - 20 Mountain Road; (ix) Bruce A. Adami and Robert J. Cote - 32 Mountain Road; and (x) Eric and Sandra Lahr - 11/13 North Road.

The abutting property owners are concerned about the effect of the Project on the views and value of their property, their style of life and enjoyment of their property, wildlife and

environment, wetlands, and health and safety. They also express their concerns about the effect that noise associated with the Project may have on their life and enjoyment of their property.

With one exception, the Applicant did not object to requests to intervene filed by abutting property residents. The Applicant requested, however, that they be combined with all other abutting property residents. The Applicant did not address requests to intervene filed by Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership and by Jeanne M. Menard for Peter F. Menard and Anne K. Burnett.

The abutting property owners from Ashland, Northfield, Canterbury, Concord, Allenstown, and Deerfield have a profound and substantial interest in the outcome of these proceedings. Petitions to intervene filed by the following property owners are granted:

- Carol Currier;
- Mary A Lee;
- Craig and Corinne Pullen;
- McKenna's Purchase Unit Owners Association;
- Taras and Marta Kucman;
- Kelly Normandeau;
- Laura M. Bonk;
- Philip H. Bilodeau and Joan C. Bilodeau;
- Erick B. Berglund Jr. and Kathleen A. Berglund;
- Rebecca Hutchinson;
- Torin Judd and Brian Judd;
- Jo Anne Bradbury;
- Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership;
- Jeanne M. Menard for Peter F. Menard and Anne K. Burnett;
- Kevin and Lisa Cini;
- Bruce A. Adami and Robert J. Cote; and
- Eric and Sandra Lahr.

To ensure the orderly conduct of this proceeding, these parties shall be combined in a single group of intervenors that can participate as a full party in these proceedings. Each of the abutters may file testimony, but the intervenor group shall designate a single spokesperson for

the purpose of filing pleadings, conducting discovery and for examination of witnesses at evidentiary hearings.

f. Non-Abutting Property Owners: Ashland – Deerfield

The Subcommittee received petitions to intervene from the following non-abutting property owners residing in the Towns of Holderness, New Hampton, Bridgewater, Canterbury and Deerfield: (i) Joanna and Robert Tuveson (Sargent Road, Holderness);¹⁵ (ii) Nina and Elisha Gray (New Hampton); (iii) Rodney Felgate and Laura Felgate (New Hampton); (iv) the Webster Family Group (Bridgewater); (v) Lawrence Phillips and Maxine Phillips (23 Mountain View Drive, Canterbury); (vi) Lisa Wolford and Pamela Hanglin (14 Church Street, Deerfield); (vii) F. Maureen Quinn (47A Nottingham Road, Deerfield); (viii) Madelyn and Thomas Foulkes (26 Nottingham Road, Deerfield); (ix) Jeanne M. Menard as a managing member of Pawtackaway View, LLC.

All of the non-abutting property owners asserted that the Project will be visible from their properties and will have adverse effects on views from their properties, value of their properties, enjoyment of their lives, and their health and safety.

The Applicant identified these individuals as residents who live outside of 100 feet of the Project and objected to their petitions to intervene.¹⁶ In the alternative, the Applicant suggested

¹⁵ Joanna and Robert Tuveson assert that their property abuts the right-of-way where the Applicant seeks to construct the Project. It is noted that the Project will not be located in the Town of Holderness. Furthermore, the Applicant identified the Tuvesons as non-abutting property owners. Therefore, the Tuvesons are treated as non-abutting property owners in this docket.

¹⁶ The Applicant identified Rodney and Laura Felgate as abutting property owners. The Felgates, however, did not assert that their property abuts the Project. The Applicant did not provide any documentation or information that would demonstrate that the Felgates' property abuts the Project. Therefore, the Felgates are treated as non-abutting property owners in this docket.

that the Subcommittee should combine their participation with that of all other non-abutting property owners.

All of these non-abutting properties will have a view of the Project from their properties. Their rights and interests may be impacted as a result of construction of the Project. Therefore, the petitions to intervene filed by the following individuals are granted in this docket:

- Joanna and Robert Tuveson;
- Nina and Elisha Gray;
- Rodney Felgate and Laura Felgate;
- The Webster Family Group of intervenors;
- Lawrence Phillips and Maxine Phillips;
- Lisa Wolford and Pamela Hanglin;
- F. Maureen Quinn;
- Madelyn and Thomas Foulkes; and
- Jeanne M. Menard as a managing member of Pawtackaway View, LLC.

These parties are combined into one group of intervenors that can participate in these proceedings as a full party. Each of the non-abutting property owners may file testimony, but the intervenor group shall designate a single spokesperson for the purpose of filing pleadings, conducting discovery, and for the examination of witnesses at evidentiary hearings.

g. Other Individuals

The Subcommittee received a petition to intervene from Anita Giulietti. Ms. Giulietti asserts that she intended to purchase some real estate in Whitefield. She discovered, however, that the Project will be visible from the property. As a result, she changed her plans and did not purchase it. She states her frustration with the impact of the Project on her and other peoples' lives.

The Applicant objected to Ms. Giulietti's petition to intervene.

Although the Applicant's plans to construct the Project might have impacted Ms. Giulietti's decision to purchase real estate in the past, she fails to demonstrate a current

interest that may be affected by the outcome of these proceedings. Ms. Giulietti's concern about the impact of the Project on other people is general and can be addressed by Counsel for the Public and other intervenors. Ms. Giulietti's petition to intervene is denied.

Sandra and Paul Kamins reside at 429 North Road in Lancaster. They assert that the Project will have adverse effects on their community and property values.

Elizabeth Terp resides in Thornton, New Hampshire. She writes a Keeping Each Other Well column for Salmon Press. The column addresses the health effects of the power lines and the alleged inadequate offset of the carbon footprint created by Hydro Quebec. She states that she possesses some level of expertise in both topics. She is concerned about the impact the Project may have on the environment of the region.

Gail S. Beaulieu resides in Plymouth. She asserts that she is employed as a mortgage originator at a bank located on Maine Street in Plymouth. She further asserts that construction of the Project along Main Street (Route 3) will disturb access to her place of employment and will prevent her customers from obtaining her services. Finally, she asserts that she, with her siblings, owns real estate encumbered by the easement where the Applicant intended to site the Project prior to its revision. She asserts that until the Applicant officially declares that these plans are moot, her property is affected by stigma associated with the Project.

Jeanne M. Menard owns a real estate company, Parade Properties. Parade Properties' office is located at 45 North Road in Deerfield, New Hampshire. Real estate owned by Parade Properties neither abuts nor is in close proximity to the right-of-way where the Applicant seeks to construct the Project. Ms. Menard, however, asserts that the Project will have adverse effects on Deerfield aesthetics and unique qualities and, in turn, will negatively affect her and her real estate company.

Thomas N.T. Mullen asserts that he and his partner owned property known as Owl's Nest Resort & Golf Club in Campton and Thornton. The property contained a golf course and was purchased for purposes of developing and selling land, homes, and condominiums. Mr. Mullen asserts that, in 2010, the Applicant announced that it intended to construct the Project within the right-of-way that crosses Owl's Nest's property. Mr. Mullen further asserts that as a result of this decision Mr. Mullen and his partner were not able to sell real estate as planned and could not repay the debt associated with the property. In 2014, the Bank foreclosed on this property. Following the foreclosure, the Applicant announced a change in Project's route and further announced that it would not be seeking to construct the Project within the right-of-way located within Owl's Nest's property. Mr. Mullen filed a civil suit against the Applicant for slander of title. Mr. Mullen asserts that he suffered injury in fact and, therefore, has a right to intervene in this docket. Finally, he asserts that he continues to be active in the real estate and construction business. His customers, however, refuse to purchase real estate near the Project's proposed way. Therefore, he asserts that he continues to suffer injury in fact.

Dr. Deborah Warner resides in Littleton. She owns Bright Day Psychology, PLLC. She is concerned about the impact of the Project on aesthetics of the region and psychological health of people residing in the region. She also asserts that the Project may have adverse effects on tourism and, therefore, may cause a decrease in her clientele.

Peter W. Powell resides in Lancaster, New Hampshire. For the last 42 years, he has been working as a realtor serving clients in Coos County and portions of northern Grafton County. Mr. Powell asserts that he has extensive experience with selling and marketing real estate. He asserts that his experience will be helpful to the Subcommittee while evaluating the impact of the Project on the value and marketability of real estate. He further asserts that, for years, he has

been actively involved in trying to rebuild the economy and attract more jobs to the North Country. He believes that his experience may be helpful to the Subcommittee.

Michael Marino and Lee Ann Moulder reside at 37 Birch Lane in Holderness, New Hampshire. They assert that the original proposed route crossed their property. The presently proposed route which is the subject of the Application does not affect their property. They are concerned that the Applicant did not officially announce that it will not pursue the original route in the future. As to the current proposed route, they assert that their property is located approximately one mile from the town line of the Town of Ashland. They assert that, because the Project will be located in the Town of Ashland, it will have an adverse effect on the character of their neighborhood and the Town of Holderness. They also assert that they followed the Project for over five years and believe that they acquired unique knowledge that can be helpful to the Subcommittee. They also claim that they are professional forensic accountants and their knowledge and expertise may be helpful to the Subcommittee. They believe that they should be granted intervention so that they can be well-prepared if the Applicant decides to re-design and construct the Project through their property.

Barbara and Robert Mathews reside at 47 Candia Road in Deerfield, New Hampshire. They own 75 acres in Deerfield. They do not assert that the Project will have an effect on their property. They do assert, however, that the Project will have significant negative impacts in Deerfield. They seek intervention as residents of Deerfield.

The Applicant objected to the petitions to intervene filed by these individuals. In the alternative, the Applicant suggested that they be combined with all other non-abutting property owners.

The impact of past designs for the Project on existing properties cannot be a basis for current intervention in this docket. In order to intervene in this docket, the parties are required to demonstrate rights, duties, privileges or other substantial interest that are current, specific and may be affected by the outcome of this proceeding. Prior route alignments of the Project are not before this Subcommittee. The outcome of these proceedings will not affect interests and rights based on the previous route of the Project. Furthermore, interests that are general to all residents of a community, *i.e* effect on tourism, property values, and business, without more, are not sufficiently specific to warrant intervention. Petitions to intervene filed for the following individuals assert past, general, or non-specific interests and rights: Elizabeth Terp; Gail S. Beaulieu; Jeanne M. Menard; Thomas N.T. Mullen; Deborah Warner; Peter W. Powell; Michael Marino and Lee Ann Moulder; Barbara and Robert Mathews. Their petitions to intervene are denied.

3. Non-Governmental Organizations

The Subcommittee received petitions to intervene from the following non-governmental organizations: (i) Society for the Protection of New Hampshire Forests; (ii) Appalachian Mountain Club; (iii) Conservation Law Foundation; (iv) New Hampshire Sierra Club; (v) Ammonoosuc Conservation Trust; (vi) Sugar Hill Historic Museum; (vii) New Hampshire Preservation Alliance and National Trust for Historic Preservation; (viii) North Country Scenic Byways Council; and (viii) No Northern Pass Coalition Board of Directors.

a. Society for the Protection of New Hampshire Forests

The Society for the Protection of New Hampshire Forests (Forest Society) is a private, non-profit membership organization dedicated to protecting the State's most important landscapes while promoting the wise use of its renewable natural resources. The Forest Society

has over 10,000 members and holds property interests in over 191,000 acres throughout New Hampshire. The Forest Society identified the following properties owned by it in fee interest that will be directly affected by the Project: (i) Washburn Forest (Clarksville); (ii) Kauffmann Forest (Stark); and (iii) The Rocks Estate (Bethlehem). The Forest Society also identified 13 pieces of real estate owned by different parties in which the Forest Society owns a conservation easement and which will be allegedly affected by the Project. Finally, the Forest Society asserted that it owns additional interests in several properties located in the vicinity of the Project.

The Applicant does not object to the petition to intervene filed by the Forest Society. The Applicant, however, requests that the Subcommittee combine the Forest Society's participation with that of other non-governmental organizations in one group of intervenors.

The Forest Society, as the owner of real estate that will be affected by the Project clearly has an interest in the outcome of these proceedings that are different from the interests of other non-governmental organizations. Unlike the other non-governmental organizations, the Forest Society has a direct ownership interest in property affected by the Project. Its participation cannot be combined with any other intervenor. The Forest Society's petition to intervene is granted. The Forest Society may participate as full party in these proceedings.

b. Appalachian Mountain Club, Conservation Law Foundation, Sierra Club Chapter of New Hampshire, and Ammonoosuc Conservation Trust

The Appalachian Mountain Club (AMC) is a non-profit conservation group incorporated in Massachusetts. It is a registered charity pursuant to § 501(c)(3) of the Internal Revenue Code. It has over 90,000 members, including more than 12,000 New Hampshire members. The AMC mission includes "promoting the protection, enjoyment, and understanding of the mountains, forests, waters and trails of America's Northeast and Mid-Atlantic regions." The AMC believes that "these resources have intrinsic worth and also provide recreational opportunities, spiritual

renewal, and ecological and economic health for the region.” The AMC has advocated for the protection of New Hampshire’s natural and recreational resources and landscape for the last 140 years. Furthermore, it requested and was granted status as an intervenor in a number of Site Evaluation Committee’s dockets – Granite Reliable Power (Nos. 2008-04 and 2014-03), Wild Meadows No. 2013-02) and Antrim Wind (No. 2012-01). AMC asserts that siting, construction, and maintenance of the transmission line through New Hampshire substantially threatens the use and enjoyment of New Hampshire’s rivers, trails, and scenic vistas by AMC members. AMC further asserts that it believes that the Project will fragment the landscape, impair scenic and recreational resources, and may affect federal and state threatened species in the region. AMC concludes that its members’ interests will be affected by the Project and its impact on the aesthetics, wildlife, historic and recreational sites of New Hampshire. AMC asserts that it has been involved with proceedings related to the Project since 2010 and has helped define impacts related to the Project through comments to the Department of Energy during the National Environmental Policy Act review and by performing its own Visual Impact Assessment in 2012.

The Conservation Law Foundation (CLF) is a private, non-profit environmental organization dedicated to the protection and responsible use of New England’s natural resources. It has over 4,100 members, approximately 500 of whom reside in New Hampshire. CLF asserts that it and many of its members will be directly affected by the Subcommittee’s decision. It further asserts that its participation will be in the interest of the justice and will assist the Subcommittee with its decision-making. CLF asserts that it has been deeply involved with evaluation of the Project for the last five years. CLF submitted seven sets of written comments on the Project’s Presidential Permit Application and participated as a consulting party in the Department of Energy’s consultations with stakeholders under Section 106 of the National

Historic Preservation Act. It, therefore, believes that its expert participation will enhance the Subcommittee's thorough review of the Project.

The Subcommittee also received a petition to intervene from the Sierra Club Chapter of New Hampshire (Sierra Club). The Sierra Club's mission is to "explore, enjoy and protect the earth." The Sierra Club asserts that its mission requires due diligence to support clean energy that does not destroy the environment, communities and way of life. It further asserts that it is concerned that the energy source of the Project is neither clean nor renewable, that the construction will be a burden on property owners, ratepayers, and the state, and that there are other sources of energy that could provide wiser investment.

The Ammonoosuc Conservation Trust (ACT) is a nationally accredited regional land trust formed in 2000 and protecting over 3,000 acres of land in 22 towns in northern Grafton and Coos counties. Its mission is "to encourage land conservation as an integral part of the growth and future well-being of New Hampshire's North Country, through conserving places with ecological, historic, community, or scenic values." ACT is especially focused on conserving the farms and working forests that are the foundation of the region's economy and character. ACT asserts that the Project, as proposed, will directly affect its service area and mission. ACT asserts that the Project will not only span towns that are in its service region, but will be specifically be in towns where ACT currently owns easements – Lancaster, Bethlehem, Sugar Hill and Easton. ACT further asserts that many of its members will be affected by the construction and operation of the Project. ACT further asserts that it was actively involved with government agencies, local communities, residents, and other commissions and committees since the announcement of the plans to construct the Project. According to ACT, it has numerous staff and board members that possess unique knowledge and experience that may assist the Subcommittee with reaching its

decision. ACT asserts that its intervention is in the interest of justice because it is dedicated to protecting the values of wildlife habitat, public recreation, scenic view sheds, intact working forests, and an economy benefiting from sustaining traditional patterns of use and protection of region's land and landscape.

The Applicant does not object to petitions to intervene filed by the Appalachian Mountain Club, Conservation Law Foundation, New Hampshire Sierra Club, and Ammonoosuc Conservation Trust. The Applicant requests that the Subcommittee combine them into one group of intervenors.

The Appalachian Mountain Club, Conservation Law Foundation, New Hampshire Sierra Club, and Ammonoosuc Conservation Trust possess a level of expertise and knowledge that may assist the Subcommittee with reaching its decision. Their participation in this docket is in the interest of the justice. Petitions to intervene filed by the Appalachian Mountain Club, Conservation Law Foundation, New Hampshire Sierra Club, and Ammonoosuc Conservation Trust are granted. To ensure the orderly conduct of the proceedings, these parties are combined into one group of intervenors. Each of the organizations may file testimony, but the group shall designate a spokesperson/attorney for the purpose of filing pleadings, conducting discovery and the examination of witnesses at evidentiary hearings.

c. Sugar Hill Historical Museum, New Hampshire Preservation Alliance and National Trust for Historic Preservation, North Country Scenic Byways Council

The Sugar Hill Historical Museum's stated purpose is "to be an educational resource for the public through research, study, collection, preservation and exhibition of artifacts that illustrate the history of [its] community." The Museum asserts that it is the primary resource for the identification, preservation and protection of historical and cultural resources for the town. The Museum is concerned about the impacts of the Project on preserved historical and cultural

landscapes, archeological deposits, historic properties, historic districts in the town specifically, and in Grafton and Coos Counties generally. The Museum asserts that its intervention will be in the interest of the justice because it possesses expertise and knowledge that may assist the Subcommittee with reaching its decision.

The New Hampshire Preservation Alliance and National Trust for Historic Preservation filed a petition to intervene with the Subcommittee. The Alliance is a New Hampshire 501(c)(3) non-profit preservation organization. The Alliance asserts that it strengthens communities and stimulates local economies by encouraging the protection and revival of historic buildings and places. It strives to demonstrate that historic preservation is an integral part of new economic and environmental trends and that community development and environmental sustainability are compatible with historic preservation practices. According to the Alliance, it actively assists preservation projects in towns along the Project, including Ashland, Boscawen, Concord, Dixville, Lancaster, Stark and Whitefield. The National Trust for Historic Preservation is a congressionally chartered 501(c)(3) non-profit organization organized under the laws of the District of Columbia. It has a field office in Boston. It is a privately funded non-profit organization that works to preserve America's historic places. It has approximately 800,000 members, approximately 1,200 of whom live in New Hampshire. They assert that they have been involved with the Project since 2011, including: (i) participating in the US Department of Energy's National Environmental Policy Act review for the issuance of a Presidential Permit for the Project; (ii) participating as consulting parties in the Department of Energy's review under Section 106 of the National Historic Preservation Act; and (iii) participating in public hearings in the current docket.

The Alliance asserts that it brings specific expertise related to the historic and cultural resources of the state and knowledge of the communities and people along the Project's route. Similarly, the Trust asserts that it brings extensive experience and expertise related to the identification and assessment of historic and cultural resources, archaeology, historic and cultural landscapes, heritage tourism, and the economics of historic preservation. They assert that their members' interests will be directly affected by the Project "including its impacts to the historic, cultural, archaeological resources, cultural landscapes, scenic byways, traditional cultural properties, recreation, and heritage tourism of New Hampshire."

The North Country Scenic Byways Council (NCSBC) is a volunteer body that was formed to develop and implement management plans for scenic byways in Coos and Northern Grafton Counties. NCSBC asserts that the overhead portion of the Project will cross scenic byways in eight locations in Coos and Northern Grafton Counties and will cross access roads to many of the region's scenic, cultural and recreational attractions. They assert that the Project will have an unreasonable adverse effect on the aesthetics of scenic byways. NCSBS is also concerned about the impact of the Project on tourism.

The Applicant does not object to petitions to intervene filed by Sugar Hill Historical Museum, New Hampshire Preservation Alliance and National Trust for Historic Preservation, and North Country Scenic Byways Council. With the exception of NCSBC, the Applicant requests that the Subcommittee combine all non-governmental organizations into one group of intervenors. The Applicant suggests that the Subcommittee should combine North Country Scenic Byways Council's participation with that of the conservations commissions.

The Sugar Hill Historical Museum, New Hampshire Preservation Alliance and National Trust for Historic Preservation, and North Country Scenic Byways Council represent interests

that will be affected by these proceedings and possess a level of expertise and knowledge that may assist the Subcommittee with reaching a decision. Their participation in this docket is in the interest of the justice. Their petitions, therefore, are granted. In order to assure the prompt and orderly conduct of the proceedings, these intervenors will be combined as a single group of intervenors. Each may file testimony, but they shall designate a single spokesperson/attorney for the purposes of filing pleadings, conducting discovery and for the examination of witnesses at evidentiary hearings.

d. No Northern Pass Coalition

The No Northern Pass Coalition (NNPC) asserts that it has conducted extensive research on the environmental impact of Hydro Quebec. It also asserts that it collected over 6,000 signed petitions from individuals across the State of New Hampshire and New England opposing the Project. Although NNPC did not provide said petitions to the Subcommittee with its petition to intervene, it asserts that it would like to be able to enter them into evidence. It further asserts that some of the individuals that signed the petitions will be directly affected by the Project.

The Applicant objected to participation of NNPC in this docket. In the alternative, the Applicant requested that the Subcommittee combine the Coalition's participation with that of the other non-governmental organizations.

NNPC fails to demonstrate any right, privilege, duty or other substantial interest that may be affected by the outcome of these proceedings. Apart from stating that it represents 6,000 unidentified individuals, NNPC fails to state with specificity how its interests or the interests of its members will or may be affected by the Project. To the extent that NNPC has a signed petition, the petition may be filed as public comment. The No Northern Pass Coalition's petition to intervene is denied.

4. Businesses and Organizations with Economic Interests

The Subcommittee received thirteen petitions to intervene from businesses and organizations that assert their economic interests in the Project: (i) Liebl Printing and Design; (ii) Garland Mill Timberframes; (iii) Cate Street Capital/Burgess Biopower; (iv) International Brotherhood of Electrical Workers; (v) BAE Systems; (vi) Dyn, Inc.; (vii) Globe Manufacturing; (viii) Wilcox Industries Corp.; (ix) New England Ratepayers Association; (x) Coos County Business and Employment Group; (xi) Dixville Capital, LLC and Balsams Resort Holdings, LLC; (xii) Wagner Forest Management; (xiii) North Country Chamber of Commerce; (xiv) Greater Rochester Chamber of Commerce; (xv) Greater Nashua Chamber of Commerce; and (xvi) Greater Manchester Chamber of Commerce.

a. Liebl Printing and Design and Garland Mill Timberframes

Liebl Printing and Design is located at 15 Forbes Hill Road in Colebrook, New Hampshire. Its owners assert that the Project will have negative impact on tourism in the area and, consequently, will negatively affect their business by diminishing its client base. They also assert that the property value of their business will be adversely affected.

Garland Mill Timberframes designs and builds heavy timberframed structures and high performance buildings for area residents and people moving to the area. Its owner, Benjamin M. Southworth, asserts that the Project will have a negative effect on business by discouraging people to move and reside in the North Country.

The Applicant did not object to petitions to intervene filed by Liebl Printing and Design and Garland Mill Timberframes. It suggested, however, that their participation should be combined with that of other businesses.

Liebl Printing and Design and Garland Mill Timberframes fail to raise specific interests and privileges that will be affected by the Project. Concerns about the impact of the Project on their businesses are general and speculative. They do not demonstrate specific concerns that warrant participation of these businesses in this docket. The claims raised by these businesses are no different than concerns of the general public. The petitions to intervene filed by Liebl Printing and Design and Garland Mill Timberframes are denied.

b. Cate Street Capital, Inc.

Cate Street Capital, Inc. (CSC), is the manager of a 75 MW biomass-fired power project known as Burgess BioPower, LLC (Burgess). CSC asserts that Burgess utilizes the Coos Loop Transmission Line that will be upgraded by the Applicant as a part of the Project. As a result of the proposed upgrade, the Loop's potential capacity may increase by up to 100MW. CSC asserts that the upgrade will significantly improve curtailment issues experienced by Burgess. CSC further asserts that, as a manager of Burgess, it will be directly affected by the economic stimulus the Project is expected to bring to the North County and surrounding communities. CSC also asserts that it is concerned about the projected retirement of approximately 8,000 MWs from the New England electric grid due to plant retirements.

The Applicant did not object to petitions to intervene filed by the CSC. It suggested, however, that its participation should be combined with that of other businesses.

CSC will be directly affected by the construction and operation of the Project. Its interests in the upgraded Coos Loop and economic benefits that, as proposed, will directly benefit it are apparent. CSC's petition to intervene is granted. The interests raised by the CSC, however, are similar to the interests raised by the City of Berlin. Therefore, CSC's participation in this docket is combined with Berlin.

c. International Brotherhood of Electrical Workers

The International Brotherhood of Electrical Workers (IBEW) is a labor organization representing more than 3,000 employees in New Hampshire. IBEW asserts that its members' future employment opportunities depend on the Subcommittee's decision to grant or deny a Certificate.

The Applicant did not object to the petition to intervene filed by the International Brotherhood of Electrical Workers. It suggested, however, that the IBEW's participation be combined with that of other businesses.

Construction and operation of the Project will have a direct impact on members of IBEW. The employment and income earning ability of IBEW members is affected by the outcome of this proceeding. IBEW's petition to intervene is granted. The International Brotherhood of Electrical Workers may participate as a full party in these proceedings.

d. BAE Systems, Dyn, Inc., Globe Manufacturing, and Wilcox Industries Corp., and New England Ratepayers Association

BAE Systems, Dyn, Inc., Globe Manufacturing, and Wilcox Industries Corp. request intervention. They assert that they are among the largest energy consumers in the State of New Hampshire. They further assert that the cost of electricity negatively affects their businesses. According to them, the Project will bring reliable, low-cost energy to New Hampshire and, therefore, will have positive effects on them. Finally, they assert that their "participation will speak directly to the important economic benefits of this project to [their] businesses and why this project is in the public interest."

The New England Ratepayers Association is a non-profit social welfare organization that advocates for the interests of ratepayers throughout New England. Its members are individuals and businesses in New Hampshire and other New England states who are concerned about the

high cost of electricity in the region and its impact on the economy. It seeks to participate as “an organization whose focus is on lowering electricity rates to New Hampshire families and businesses.”

The interests raised by BAE Systems, Dyn, Inc., Globe Manufacturing, Wilcox Industries Corp., and the New England Ratepayers Association are general in nature. They are concerns that are shared by businesses and individuals across the state. These businesses do not demonstrate the type of substantial interests that warrant participation as an intervenor. Their concerns will be adequately addressed by the overall process. The petitions to intervene filed by BAE Systems, Dyn, Inc., Globe Manufacturing, Wilcox Industries Corp., and the New England Ratepayers Association are denied.

e. Coos County Business and Employers Group

The Coos County Business and Employers Group is a non-profit voluntary corporation that was organized to encourage and cultivate economic development and opportunities across business sectors for the promotion of growth and prosperity of cities, towns, villages, and unincorporated locations within Coos County, New Hampshire. The Group asserts that construction and operation of the Project will bring numerous economic benefits and will ensure creation of numerous construction jobs. The Group asserts that the benefits will lead to economic prosperity in the region, which advances the goals and mission of the Group.

The Applicant did not object to petition to intervene filed by the Coos County Business and Employers Group, but suggested that the Group’s participation be combined with that of other intervenors in this docket.

Members of the Coos County Business and Employers Group have a direct interest in the outcome of these proceedings. Their income, employment, and prosperity may be directly

affected by the Subcommittee's decision to deny or grant the Certificate. The Group's petition to intervene is granted. The Group may participate as a full party in these proceedings.

f. North Country Chamber of Commerce

The North Country Chamber of Commerce (NCCOC) is a New Hampshire nonprofit organization with an office located in Colebrook, New Hampshire. Its mission is the promotion, development, publicizing and improvement of the region it serves in Northern Coos County (New Hampshire) and Northeastern Essex County (Vermont). It has over 130 members from the region's business community. NCCOC asserts that the Project will have adverse effects on tourism and related economy. It also will have adverse effects on the local and regional environment, property values, and aesthetics. NCCOC asserts such effects will impact its members and, therefore, NCCOC's interests, rights, and privileges.

The Applicant did not object to the petition to intervene filed by the North Country Chamber of Commerce, but suggested that its participation be combined with that of other intervenors in this docket.

The Project, if approved, will have a direct and significant effect on residents and businesses of Coos County and, consequently, on members of NCCOC and its mission. NCCOC's petition to intervene is granted. NCCOC is allowed to intervene as a full party in these proceedings.

g. Dixville Capital, LLC and Balsams Resort Holdings, LLC

Dixville Capital, LLC, and Balsams Resort Holdings, LLC, assert that they entered into a number of contracts and option agreements seeking to purchase approximately 11,000 acres and the Balsams Resort. They seek to substantially develop the resort as a year-round destination by undertaking a project that would include expansion of skiing terrain to 2,200 acres, creation of an

extensive and fully-integrated trail network for Nordic skiing, hiking and biking, building new lodging and connecting lodging to the trail system, revitalization of the existing golf course and restoration of the historic clubhouse. The overall cost of the redevelopment is expected to be approximately \$143 million. Dixville Capital, LLC, and Balsams Resort Holdings, LLC, assert that the Project will run parallel to the eastern boundary of the resort and may affect their plans to expand skiable terrain. They also assert that the Project may affect the availability and cost of power that will be used by the resort.

The Applicant did not object to the petition to intervene filed by Dixville Capital, LLC, and Balsams Resort Holdings, LLC, but suggested that their participation be combined with that of other intervenors in this docket.

The interests of Dixville Capital, LLC, and Balsams Resort Holdings, LLC, will be affected by the outcome of these proceedings. The Project's proximity and potential constraints on the resort's ability to expand its terrain as well as its ability to obtain electricity will have an immediate and direct impact on the resort and entities that own it. Their petition is granted and they may participate as a single party in this docket.¹⁷

h. Wagner Forest Management

Wagner Forest Management manages forest lands along 24 miles of the proposed route, land that the Applicant seeks to use for the construction of the Project. The Applicant has leased portions of the lands for the construction and operation of the Project from Wagner. Wagner Forest Management thus has a direct economic interest in the outcome of these proceedings. The

¹⁷ Subsequent to the filing of the petition to intervene, the Applicant announced an advance grant of \$2 million from the Forward New Hampshire Fund to the redevelopment of the Balsams Resort.

petition to intervene filed by Wagner Forest Management is granted. Wagner Forest Management may participate as a party in these proceedings.

i. Greater Rochester, Nashua and Manchester Chambers of Commerce

The Greater Rochester, Nashua and Manchester Chambers of Commerce are non-profit business advocacy organizations whose members are businesses located in their regions. They assert that their members continue to raise concerns about the availability and high costs of electricity. According to them, the Project will bring additional electricity and decrease the cost of electricity in New Hampshire. It will have a positive effect on Chambers of Commerce members and, consequently, will affect the Chambers' rights and interests.

The Applicant did not object to petitions to intervene filed by Chambers of Commerce, but suggested that their participation be combined with that of other businesses.

The interests expressed by the Rochester, Manchester, and Nashua Chambers of Commerce are general in nature. Interests in economic benefits and supply of electricity associated with the Project affect all members of the public. Those interests will be addressed and represented by the process and by Counsel for the Public and other intervenors. The petitions filed by the Greater Nashua, Rochester, and Manchester Chambers of Commerce are denied.

5. State Legislators

The Subcommittee received a petition to intervene signed by 4 senators and 63 state representatives (State Legislators). The State Legislators assert that their constituents have expressed serious concerns about the Project. They further assert that construction and operation of the Project, in one way or another, will affect the interests of their constituents. Therefore, they seek intervention to ensure that the rights, interest, and privileges of their constituents and issues raised by the Project are addressed by the Subcommittee.

The Subcommittee also received an individual petition to intervene from Laurence M. Rappaport, New Hampshire State Representative, Coos District One. Representative Rappaport asserts that he represents all the communities from Pittsburg to North Stratford in the New Hampshire legislature and seeks to represent the interests of his constituents in these proceedings.

The Applicant objected to the petitions to intervene filed by the New Hampshire State Legislators. In the alternative, the Applicant suggested that all senators and representatives be combined into one group of intervenors.

The State Legislators do not express individual interests that will be affected by these proceedings. Their requests to intervene are solely based on the interests of their constituents. The State Legislators do not identify a single individual or related interest that, in fact, may be affected by the outcome of these proceedings. The interests asserted by the State Legislators are generalized and are not sufficient to warrant intervention in this docket. New Hampshire benefits from the sacrifices of our citizen legislature, but election to the legislature does not create the type of right, privilege, or interest that is required to be demonstrated by an intervenor in an administrative adjudicative hearing. The petitions to intervene filed by the New Hampshire Legislators and Representative Rappaport are denied.

6. New England Power Generators Association, Inc.

The New England Power Generators Association, Inc. (NEPGA), is a trade association representing competitive electric generation companies in New England. Its members collectively generate approximately 25,000 megawatts of generating capacity in the region, with more than 2,700 megawatts generated by New Hampshire companies from wind, solar, gas, nuclear, biomass, and hydro. Its mission is to promote sound energy policies to further economic

development, jobs and balanced environmental policy. NEPGA asserts that it has a “direct and substantial interest in ensuring this project competes on a level playing field with other projects of this nature and in ensuring that Eversource Energy’s competitive electric affiliate, Northern Pass Transmission, LLC (NPT), is not unfairly advantaged to the detriment of other non-affiliated companies operating in the region” NEPGA seeks limited intervention status so it can address the following issues: (i) the implications for the Applicant of the affiliate relationship between Eversource Energy and Northern Pass Transmission, LLC, and the potential for any undue benefit that may arise therein; (ii) impacts to the competitive electricity markets, including but not limited to, competitive procurement practices and the potential power purchase agreement; and (iii) any proposed public interest stated by the Applicant. NEPGA also asserts that it has knowledge, experience and perspectives that are likely to be of value to the Subcommittee and other parties.

The Applicant objected to NEPGA’s participation.

NEPGA fails to establish specific and substantial interests that may be affected by the outcome of these proceedings. Instead, NEPGA asserted that it seeks intervention to “ensure this project competes on a level playing field with other projects of this nature and . . . [to ensure that] . . . Northern Pass Transmission, LLC (NPT), is not unfairly advantaged to the detriment of other non-affiliated companies operating in the region.” Ensuring fair or competitive markets is not a reason for intervention and is not within the purview of the Site Evaluation Committee. The Committee makes siting decisions and does not regulate competition amongst electric generators. NEPGA fails to demonstrate a substantial interest, right, or privilege that may be affected by the outcome of these proceedings. NEPGA’s petition to intervene is denied.

7. Pemigewasset River Local Advisory Committee

The Pemigewasset River Local Advisory Committee's duties include the requirement to consider and comment on any federal, state, or local governmental plans to approve, license, fund or construct facilities that would alter the resource values and character for which the river is designated. The Pemigewasset River was designated in 1991. The Pemigewasset River Local Advisory Committee's focus is on the implications of proposed development activity on water quality, water quantity, and aesthetic impact on the river. The Pemigewasset River Local Advisory Committee asserts that the river and supporting wetlands will be negatively affected by the Project.

The Applicant did not object to the petitions to intervene filed by the Pemigewasset River Local Advisory Committee, but suggested that its participation be combined with that of the conservation commissions.

The Pemigewasset River Local Advisory Committee has a substantial interest in ensuring that rivers and wetlands will not be negatively impacted by the Project. The Committee's petition to intervene is granted. The Pemigewasset River Local Advisory Committee may intervene as a full party in these proceedings.

III. Conclusion

This matter is without precedent in New Hampshire. More than 160 motions to intervene were filed, many of which were on behalf of multiple entities. Most of those seeking intervenor status have been able to identify direct and substantial interests in this matter and have a right to intervene. It is simply not possible, however, to administer a proceeding of this nature with that number of individual, separate parties. Fortunately, the statute and rules governing intervention allow limitations to be imposed on intervenors, including consolidation and combination of

intervenors, as long as the limitations are not “so extensive as to prevent the intervenor from protecting the interest which formed the basis for intervention.” RSA 541-A:32, IV. Here, while each intervenor has something that makes him, her, or it unique, there are many common interests and positions that make the combinations and consolidations described above appropriate. Even with all of the combinations, there will still be more than 20 separate individuals and groups, in addition to the Applicant and Counsel for the Public, who will be speaking at hearings and technical sessions, propounding data requests, and filing motions and other types of pleadings.

With respect to those whose intervention petitions are denied, they are not precluded from participating in this matter in a number of ways. They are free to continue to submit comments, and those who have special knowledge and expertise are also able to assist like-minded individuals and groups who are intervenors.

IV. Orders

It is hereby ordered that the petitions to intervene filed by the following parties are granted:

1. **Towns, Towns Governing Bodies, Municipal Sub-Units, Conservation Commissions, Grafton County Commissioners, Rick Samson, Local Government Entities**
 - a. **Towns, Bodies, Municipal Sub-Units and Conservation Commissions**
 - **Municipal Group 1** – Pittsburg, Clarksville, Stewartstown, Colebrook, Northumberland, Whitefield (Board of Selectmen and Planning Board), Dalton (Board of Selectmen and Conservation Commission), Bethlehem (Board of Selectmen, Planning Board and Conservation Commission); and Littleton – as a single party;
 - **Municipal Group 2** – Sugar Hill, Franconia (Board of Selectmen, Planning Board, and Conservation Commission), Easton (Board of Selectmen, Planning Board, and Conservation Commission), Woodstock, and Plymouth – as a single party;

- **Municipal Group 3** - Holderness (Board of Selectmen and Conservation Commission), Ashland (Board of Selectmen, Conservation Commission and Water & Sewer Department), Bridgewater, New Hampton, Bristol, Canterbury, Concord, Pembroke (Board of Selectmen and Conservation Commission), and Deerfield (Board of Selectmen, Planning Board, and Conservation Commission) – as a single party.
 - City of Franklin – as a full party.
- b. Grafton County Commissioners and Commissioner Rick Samson – as a single party
- Grafton County Commissioners
 - Commissioner Rick Samson

2. **Individual Parties**

- a. Abutting Property Owners: Clarksville – Dalton
- i. *Clarksville-Stewartstown Abutting Property Intervenor (underground portion of the Project), as a single party*
- Charles and Donna Jordan
 - Sally A. Zankowski
 - Jon and Lori Levesque
 - Roderick and Donna McAllaster
 - Lynne Placey
 - Arlene Placey
 - Brad and Daryl Thompson
 - David Schrier
 - Nancy L. Dodge
- ii. *Dummer, Stark, Northumberland, Whitefield, and Dalton Abutting Property Intervenor (overhead portion of the Project), as a single party*
- R. Eric Jones and Margaret J. Jones
 - Elmer C. Lupton and Claire C. Lupton
 - Mary Boone Wellington
 - Bruce and Sondra Brekke
 - Elaine V. Olson
 - Eric M. Olson
 - Joshua Olson
 - Elaine V. Olson
 - Kevin Spencer
 - Rodrigue J. and Tammy L. Beland
 - Susan E. Percy for Percy Summer Club

- Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC
 - Robert Heath
 - James and Judy Ramsdell
 - Charles and Cynthia Hatfield
 - Donald and Betty Gooden
 - Tim and Brigitte White
- b. Non-Abutting Property Owners: Clarksville – Bethlehem, as a single party
- Robert Martin
 - Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady and Christopher Thompson
 - E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents);
 - Mark W. Orzek and Susan Orzek
 - John W. Davidge for Prospect Farm-Lancaster, LLC
 - Linda Upham-Bornstein
 - Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust
 - Richard M. McGinnis
 - Frederic P. Fitts
 - Gerald and Vivian Roy
 - Edward A. Piatek
 - Frank and Kate Lombardi
 - Marsha J. Lombardi
 - Alexandra M. Dannis and James G. Dannis
 - David Van Houten
 - Wendy Doran
 - Andrew D. Dodge.
- c. Abutting Property Owners: Bethlehem – Plymouth, as a single party
- Nigel Manley and Judy Ratzel
 - Russel and Lydia Cumbee
 - Walter Palmer and Kathryn Ting
 - G. Peter and Mary S. Grote
 - Paul and Dana O'Hara
 - Virginia Jeffreys
 - Carol Dwyer
 - Gregory and Lucille Wolf
 - Susan Schibanoff
 - Ken and Linda Ford
 - Campbell McLaren, M.D.
 - Eric and Barbara Meyer
 - Robert W. Thibault
 - Dennis Ford

- Carl Lakes and Barbara Lakes
 - Bruce D. Ahern
 - Frank Pinter
- d. Non-Abutting Property Owners: Bethlehem – Plymouth, as a single party
- Lee Sullivan and Stephen Buzzell
 - Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, and Matthew Steele, individually and as owners of 41 Dyke Road, LLC
- e. Abutting Property Owners: Ashland – Deerfield, as a single party
- Carol Currier
 - Mary A Lee
 - Craig and Corinne Pullen
 - McKenna’s Purchase Unit Owners Association
 - Taras and Marta Kucman
 - Kelly Normandeau
 - Laura M. Bonk
 - Philip H. Bilodeau and Joan C. Bilodeau
 - Erick B. Berglund Jr. and Kathleen A. Berglund
 - Rebecca Hutchinson
 - Torin Judd and Brian Judd
 - Jo Anne Bradbury
 - Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership
 - Jeanne M. Menard for Peter F. Menard and Anne K. Burnett
 - Kevin and Lisa Cini
 - Bruce A. Adami and Robert J. Cote
 - Eric and Sandra Lahr
- f. Non-Abutting Property Owners: Ashland – Deerfield, as a single party
- Joanna and Robert Tuveson
 - Nina and Elisha Gray
 - Rodney Felgate and Laura Felgate
 - The Webster Family Group
 - Lawrence Phillips and Maxine Phillips
 - Lisa Wolford and Pamela Hanglin
 - F. Maureen Quinn
 - Madelyn and Thomas Foulkes
 - Jeanne M. Menard as a managing member of Pawtackaway View, LLC

3. Non-Governmental Organizations

- a. Society for the Protection of New Hampshire Forests –as full party;

- b. Appalachian Mountain Club, Conservation Land Foundation, Sierra Club Chapter of New Hampshire, and Ammonoosuc Conservation Trust – as a single party; and
- c. Sugar Hill Historical Museum, New Hampshire Preservation Alliance and National Trust for Historic Preservation, North Country Scenic Byways Council – as a single party.

4. Businesses and Organization with Economic Interests

- a. Cate Street Capital, Inc. and City of Berlin – as a single party;
- b. International Brotherhood of Electrical Workers – full party;
- c. Coos County Business and Employers Group – full party;
- d. North County Chamber of Commerce – full party;
- e. Dixville Capital, LLC and Balsams Resort Holdings, LLC – full party; and
- f. Wagner Forest Management – full party.

5. Pemigewasset River Local Advisory Committee.

and;

It is hereby further ordered that the motions to intervene filed by the following parties are denied:

- 1. City of Nashua;
- 2. City of Manchester;
- 3. Lafayette School Board;
- 4. Anita Giuliatti;
- 5. Sandra and Paul Kamins;
- 6. Elizabeth Terp;
- 7. Gail S. Beaulieu;
- 8. Jeanne M. Menard (as to her Parade Properties petition);
- 9. Thomas N.T. Mullen;
- 10. Deborah Warner;
- 11. Peter W. Powell;
- 12. Michael Marino and Lee Ann Moulder;
- 13. Barbara and Robert Mathews;
- 14. Robert B. Crave;
- 15. Krsi Pastoriza;
- 16. James H. Page, Jr.;
- 17. No Northern Pass Coalition;
- 18. Liebl Printing and Design;
- 19. Garland Mill Timberframes;
- 20. BAE Systems;
- 21. Dyn, Inc.;
- 22. Globe Manufacturing;

23. Wilcox Industries Corp.;
24. New England Ratepayers Association;
25. Greater Rochester Chamber of Commerce;
26. Greater Nashua Chamber of Commerce;
27. Greater Manchester Chamber of Commerce;
28. State Representatives and Senators; and,
29. New England Power Generators Association, Inc.

March 18, 2016



New Hampshire Site Evaluation Committee
Martin P. Honigberg, Chairman

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

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 the Construction of a New High Voltage Transmission Line in New Hampshire

Docket No. 2015-16

CITY OF CONCORD’S MOTION FOR REVIEW OF ORDER ON INTERVENTION

The City of Concord, by and through its attorneys, the Office of the City Solicitor, requests that the Site Evaluation Committee review and modify the decision of the presiding officer relative to the City of Concord’s intervention status in the above-captioned matter in accordance with RSA 162-H:4, V; RSA 541-A:32 and Site Rule 202.11(f), stating as follows:

I. BACKGROUND

1. On November 17, 2015, the City of Concord moved to intervene. On March 18, 2016, the presiding officer of the Site Evaluation Committee issued an Order which consolidates Concord’s intervention with other municipalities and materially limits Concord’s intervention in this matter. Order on Petitions to Intervene at 8. More specifically, the Order consolidates Concord in Municipal Group 3 (Southern Section) which consists of Holderness, Ashland, Bridgewater, New Hampton, Bristol, Canterbury, Pembroke and Deerfield. *Id.* As set forth more fully below, Concord has raised issues in this matter that are separate and distinct from those of other municipalities in Municipal Group 3 and throughout the entire State. Indeed, the proposed Northern Pass Transmission, LLC route has greater impact on Concord than any other municipality in New Hampshire. Notwithstanding Concord’s unique position in this matter, the Order requires Concord to join Municipal Group 3 and “designate a single spokesperson for the purpose of filing pleadings, conducting discovery, and for examining witnesses at evidentiary hearings.” This ruling adversely and materially limits Concord’s ability to address the proposed

Northern Pass Transmission, LLC route and its unique impact on Concord, and accordingly, must be modified to authorize Concord to independently represent and protect its interests.

2. Concord requests the Site Evaluation Committee to review and modify the decision of the presiding officer which combines Concord with other separate and distinct municipalities. As discussed in more detail below, such a requirement prevents Concord from protecting its interests which form the basis of its intervention. There is no question that this Order runs counter to RSA 541-A:32, IV and Site Rule 202.11(e) which provide that to the extent that a presiding officer imposes conditions on intervention, such conditions shall not be “so extensive as to prevent the intervenor from protecting the interest which formed the basis of the intervention.” The Order must be modified to authorize Concord to independently represent and protect its interests.

II. ANALYSIS

A. Unique Impacts On Concord

3. The proposed project has significant and unique impacts on Concord, and it is imperative that Concord have an adequate opportunity to fully address those issues in its pleadings and during the adjudicative hearing. The proposed facility is projected to run 8.1 miles through significant portions of Concord, and unlike much of the rest of the proposed Northern Pass route in the state, in Concord it will abut dense residential neighborhoods. Concord is concerned about the impact that the project will have on its character and property values as a result of the overhead lines and supporting structures. The visual and audio impacts of transmission lines and large structures are also of particular worry. The following provides an overview of some of the unique issues to Concord¹:

¹ As discovery has not commenced, this is not intended to be a complete list and may be modified.

(a) Population Density and Length of Route: Concord is the capital of New Hampshire, and has a population of 42,695, which equates to 36% of the entire population along the proposed route.² There are 8.1 miles of overhead lines proposed for Concord, which is approximately 6% of the proposed 132 miles of overhead route. There are only four municipalities that will be subjected to a greater distance of overhead lines in their communities (Dixville, Franklin, Whitefield and Stark). Concord needs the opportunity to independently explore the impact of the project's construction and operations on its population.

(b) Abutting Neighborhoods: The proposed route abuts a number of heavily populated neighborhoods in Concord, including McKenna's Purchase which has 148 condominium units. Some of the units at McKenna's Purchase are immediately adjacent to the proposed route. Concord needs the opportunity to explore and present evidence on the impact on properties, including property values and resulting noise from construction and operation of the project. For example, with respect to McKenna's Purchase, the proposal includes the relocation of a large berm that is used to reduce noise from nearby commercial properties (such as audible backup alarms on forklifts). Concord needs to ensure that the volume of noise will not increase due to the relocation of the berm.

(c) Height of Structures: According to the Northern Pass website, the most common height of the existing structures in the right of way in Concord are 43 feet. The average height of the relocated structures will be 88 feet, or twice the existing average height. Moreover, the application shows 120 structures over 90 feet in Concord, and 60 of those structures are proposed to be between 100-125 feet. The Concord route runs through residential, commercial and industrial zones. According to a September 25, 2012 study by the Appalachian Mountain Club,

² There are 31 municipalities along the proposed route, and using data from the 2010 census, those municipalities have a combined population of 117,518.

“Concord experiences the highest exposure with over 9000 acres having visibility of at least one tower.” Concord needs to address the specific scenic and the significant visual impact of those structures, as well as how it conflicts with Concord’s municipal goals. Concord has spent significant resources on projects throughout the City to bury power lines, and under its subdivision regulations, all new subdivisions are required to bury power lines. Concord needs to address the feasibility and cost for Northern Pass, LLC to bury the lines in all or portions of Concord.³

(d) Impact of Structures in Gateway Performance District: Two of the proposed structures will be 125 feet, and are located near Loudon Road which is Concord’s Gateway Performance District that provides an entrance into the easterly portion of Concord. The Department of Energy has stated that the proposed structures at this location will have an aesthetic/visual impact which increases current conditions in this area from “moderate” to “severe” which means that “the visual change would be very large, and in sensitive settings is likely considered unreasonably adverse by a casual observer.” This severe impact conflicts with the goals of Concord’s Zoning Ordinance. The Gateway Performance District was established to provide for well designed, large scale commercial developments that “are expected to adhere to high standards for appearance in order to ensure that the gateways to the City are attractive and functional. Buffering and screening for adjacent neighborhoods are of concern for development at the edges of this District.” The Gateway Performance District is a growth corridor that is actively developed, and has some of Concord’s highest valued properties due to its desirable

³ In March 2015, the Concord City Council appointed a subcommittee of its members to examine the effects of the project on Concord. The subcommittee met six times and took testimony from 50 witnesses. Representatives of Northern Pass, LLC attended the meetings. The subcommittee requested specific information from Northern Pass, LLC about the cost of burial in Concord, but it was never provided. The subcommittee concluded that the applicant had not adequately considered the alternative of burial of the line through Concord. The applicant has still not adequately considered that option. The Concord City Council requested the Office of the City Solicitor to intervene in the project application.

location. Concord needs to adequately address the impacts of the proposed structures in this area, and to conduct discovery on alternative options such as burying the lines in this location.

(e) Impacts of Structures at Turtletown Pond: The project also proposes the construction of structures at Turtletown Pond that the Department of Energy has stated will have an aesthetic/visual impact which increases current conditions from “moderate” to “strong.” Concord needs to adequately address these impacts in discovery and at the hearing, and also to fully evaluate alternative options such as burial in this location to avoid scenic impacts.

(f) Karner Blue Butterflies and Concord Pine Barrens: The proposed route bisects a lot that is owned in fee by Concord (Map 111, Block B1, Lot 4) that is believed to provide a habitat for the Karner Blue butterfly, which is listed as a federally endangered species and has been reintroduced in Concord through the release of captive reared butterflies in the Pine Barrens. Concord needs the opportunity to explore the potential impacts on the Karner Blue butterflies on its property, as well as other areas of Concord.

(g) Ownership Interests: Similar to the Society for the Protection of New Hampshire Forests, which was allowed to participate as a full party in the proceedings, Concord has a direct ownership interest in properties affected by the Project. The proposed route crosses through six lots that Concord owns in fee simple, as well as four lots on which Concord owns and manages conservation easements. Concord also owns and manages conservation easements on two lots that are located immediately adjacent to the proposed route. One of the parcels in the view shed is Oak Hill Road Conservation Area which has popular walking trails in the City. Concord needs to have an opportunity to address issues that impact the property it owns and manages.⁴

⁴ Concord owns the following lots in fee: (1) 263 Portsmouth Street (Map 113, Block 2, Lot 27); (2) Pembroke Road (Map 111, Block B1, Lot 4); (3) Spears Park (Map 122, Block 2, Lot 46); (4) Misty Oak Drive (Map 122, Block C1, Lot 19); (5) Oak Hill Road Conservation Area (Map 120, Block 1, Lot 16); (6) Turtle Pond Conservation Area (Map 118, Block F2, Lot 17); and (6) 65 Airport Road (Map 110, Block 1, Lot 6). Concord has conservation

4. These issues are unique to Concord. The other municipalities in Municipal Group 3 have separate and distinct issues. By way of example, Holderness is not crossed on the project route. Deerfield is unique because it includes the proposed terminal substation. Ashland Water and Sewer Commission has unique issues that include concerns about construction on land that contains its well field, aquifer and wastewater treatment facility. It is not realistic to expect Concord to subordinate its interests with other rural municipalities which in many cases have no similarities with Concord.

B. Discovery

5. With respect to discovery, Concord should not be combined with Municipal Group 3 for the purpose of propounding data requests. It is unworkable for Concord to attempt to coordinate with other municipalities (including all of their boards and commissions), many of which are not represented by counsel and will need to hold meetings in accordance with RSA chapter 91-A, the Right to Know law. Such a requirement could effectively force Concord's legal counsel to travel and attend a significant amount of meetings with unrepresented boards and commissions in an attempt to identify an agreed-upon set of data requests to submit to the applicant.⁵ Moreover, in the event that a consensus is not obtained, it could effectively eliminate Concord's ability to propound data requests.

C. Pleadings and Cross-Examination

6. It is necessary for Concord to independently file pleadings and cross-examine witnesses in order to adequately protect its interests. The requirement that a "spokesperson" be

easements that it manages at: (1) Fox Run Open Space (no Map, Block, Lot associated); (2) Blood Agricultural Easement (Map 121, Block 3, Lot 2); (3) Unitil Conservation Easement (Map 113, Block 2, Lot 11); and (4) Manchester Sand and Gravel Conservation Easement (Map 109, Block 4, Lot 12). Concord also owns and manages conservation easements on two lots that are located immediately adjacent to the proposed route: (1) Harold Turner Easement (Map 118, Lot 2, Block 39); (2) Reardon Conservation Easement (Map 118, Block 1, Lot 35).

⁵ As discussed below, this also raises legal and ethical issues for the Concord's legal counsel.

assigned to Municipal Group 3 effectively limits Concord's participation. It is unlikely that Concord's legal counsel can act as a "spokesperson" for Municipal Group 3. Under the City of Concord's Code of Ordinance, Section 30-2-8, the Legal Division is only allowed to "represent *the City* in all matters in which the City has an interest coming before any court or tribunal. . . ." (Emphasis added). The attorneys employed by the Office of the City Solicitor are not allowed directly or indirectly to engage in the private practice of law. *Id.* It would raise a number of legal issues for the Office of the City Solicitor to be designated as the "spokesperson" for Municipal Group 3 by filing pleadings and examining witnesses at the adjudicatory hearings to address concerns on behalf of other municipalities which are not directly related to issues in Concord.

7. The consolidation also raises issues under the Rules of Professional Conduct. The municipalities involved in Municipal Group 3 have potentially unique issues, and some of the municipalities may choose to make decisions for strategic or political reasons. Under the Rules of Professional Conduct 1.2(a), a lawyer is required to abide by a client's decisions concerning the objectives of representation. Under Rule 1.6, a lawyer is required not to reveal information relating to the representation of its client unless it receives informed consent. Under Rule 3.1, a lawyer is not allowed to bring or defend a proceeding or controvert an issue unless there is a basis in law and it is not frivolous. Under Rule 4.3, a lawyer is not allowed to give legal advice to an unrepresented person if the lawyer knows or reasonably believes that the interests of such a person are in conflict with the interest of their client. The requirement that the parties choose a "spokesperson" for filing pleadings and presenting cross-examination raises issues for those attorneys representing municipalities who may disagree with the proposed approach of other municipalities and is simply unworkable.

8. Based on the unique and important issues to Concord, one of the State's largest cities and capital, Concord should not be forced to file pleadings and present examination with other municipalities. Indeed, a review of previous dockets reveals that such a requirement is unprecedented. Municipalities have historically been allowed to participate in the adjudicatory process as full parties, and Concord has been unable to locate any cases on the Committee's website where municipalities were combined. *See, e.g., Application of Antrim Wind Energy, LLC*, Docket No. 2015-02 (order dated February 16, 2016); *Petition for Jurisdiction over Renewable Facility by Antrim Wind Energy, LLC*, Docket No. 2014-05 (order dated March 13, 2015); *Application of Antrim Wind Energy, LLC*, Docket No. 2012-01 (order dated May 18, 2012); *Application of Groton Wind, LLC*, Docket No. 2010-01 (order dated June 25, 2010); *Application of Laidlaw Berlin BioPower, LLC*, Docket No. 2009-02 (order dated March 24, 2010).⁶

9. The interests of justice and orderly and prompt conduct of the proceedings will not be impaired by allowing full intervention of Concord for purposes of conducting discovery, filing pleadings and conducting cross-examination. Concord may coordinate with other intervenors to the extent possible in order to reduce costs and prevent duplicative evidence. Concord also recognizes that its cross-examination will be limited during the adjudicative hearing to avoid duplicative testimony that has already been introduced by Public Counsel or other intervenors, and it will only address issues that impact Concord. In order to ensure efficiency of the process, the presiding officer can also make rulings to address issues both before and during the adjudicatory hearing.

⁶ In fact, in some of these matters, planning boards and conservation commissions were allowed to participate separately and fully.

III. CONCLUSION

10. For all of the foregoing reasons, Concord respectfully requests the Committee to allow Concord to participate in the proceedings as a full party. This case has significant implications for Concord, and the current intervention Order effectively eliminates Concord's statutory and procedural due process rights by denying it the ability to protect the interests which formed the basis of its intervention.

11. In accordance with Site 202.14, Concord has attempted to obtain concurrence from some of the primary parties, as well as the members of Municipal Group 3. Concord has been notified that Public Counsel and the New Hampshire Society for the Protection of Forests concur with the relief requested. With respect to Municipal Group 3, the Ashland Conservation Commission, the Town of Holderness, New Hampshire and Bridgewater concur. Bristol does not take a position. Concord has not yet received a response from the remaining municipalities (and its boards and commissions) in Municipal Group 3. The applicant does not concur.

WHEREFORE, the City of Concord respectfully requests that the Site Evaluation Committee:

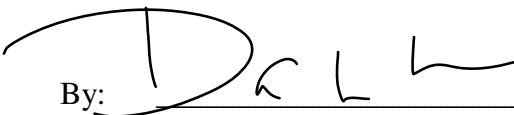
- A. Allow Concord to participate in the proceedings as a full party for purposes of discovery, filing pleadings and cross examination; and
- B. Grant such other and further relief as may be just.

Respectfully submitted,

CITY OF CONCORD

March 25, 2016

By:




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Concord, New Hampshire 03301
Telephone: (603) 225-8505
Facsimile: (603) 225-8558
dpacik@concordnh.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of March 2016, a copy of the foregoing was sent by electronic mail to persons named on the Service List of this docket.

March 25, 2016

By:



Danielle L. Pacik, Deputy City Solicitor

**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' 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**

I. Introduction

1. On March 18, 2016, the Presiding Officer issued an Order on Petitions to Intervene (Order) pursuant to RSA 162-H:4, V. Since March 18, 2016 various individuals, groups, towns and other organizations have filed motions requesting review or rehearing of the Order. In addition, a number of individuals submitted late-filed petitions to intervene in this proceeding.

2. As a general matter, Northern Pass Transmission LLC ("NPT") and Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") (collectively the "Applicants") believe the March 18, 2016 Order was a well-conceived effort to start managing this complex case efficiently. The Order balances the competing due process interests of all the parties and takes measured steps to help ensure that the Application can be processed in a timely manner while allowing interveners to participate in a way that will help to avoid interference with the orderly conduct of the proceedings. That said, the Applicants are quite concerned that the number of parties now admitted pursuant to the Order is at the outer bounds of what can be accommodated and still ensure the timely and orderly conduct of the proceedings. Even with these numbers, it will be a challenge.

3. The March 18, 2016 Order granted the intervention of a majority of the petitioners. In certain instances, where appropriate, the Presiding Officer grouped similarly situated interveners and/or limited their participation pursuant to RSA 541-A:32, III and Site 202.11(d). The Presiding Officer explained, “More than 160 motions to intervene were filed, many of which were on behalf of multiple entities ...[I]t is simply not possible, however, to administer a proceeding of this nature with that number of individual, separate parties.” Order at 47. A number of petitioners have filed pleadings with the Committee objecting to the limitations and/or groupings and/or request review of their Petition to Intervene.

4. The Applicants believe that the Presiding Officer properly exercised his discretion under RSA 541-A:32, III. The establishment of 22 parties in addition to the Applicants and Counsel for the Public, sorted among individuals, businesses, towns, and non-governmental organizations, including the recognition of geographic distinctions, fairly represents the interests of all the parties while assuring the prompt and orderly conduct of the proceeding. The Applicants therefore urge the Committee to deny all the requests for review or rehearing.

II. Standard of Review

5. RSA 162-H:4, V provides that “Any party aggrieved by a decision on a petition to intervene may within 10 calendar days request that the committee review such decision.” RSA 162-H:4, V. In this case, the parties aggrieved by the Order take two forms: (1) those parties that were granted intervention but object to the limitations imposed on their participation and (2) those parties that were denied intervention in this proceeding.

6. The Presiding Officer is acting as the trier of fact in this situation and has been delegated the authority to decide the issues. The Committee is therefore sitting as an appellate reviewer. In such circumstances, the factual findings of the Presiding Officer are treated

deferentially and overturned only when there is an error of law or there is substantial evidence that the result is unjust or unreasonable. *See* RSA 541:13.

7. Alternatively, the review may be treated as a motion for rehearing, in which case the purpose of rehearing “is to direct attention to matters that have been overlooked or mistakenly conceived in the original decision” *Damais v. State*, 118 N.H. 309, 311 (1978) (internal quotations omitted). A rehearing may be granted when the Committee finds “good reason” or “good cause” has been demonstrated. *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 successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome.” *Public Service Co. of N.H.*, Order No. 25,676 at 3 (June 12, 2014); *see also Freedom Energy Logistics*, Order No. 25,810 at 4 (Sept. 8, 2015).

8. In either case, review of the Presiding Officer’s decision should be limited insofar as there is clear and demonstrable error and not result in the Committee simply substituting its judgment for that of the Presiding Officer’s.

III. Combinations of Interveners

9. A number of interveners whose petitions to intervene were granted now request review of the Presiding Officer’s grouping and/or limiting of their intervention. Some interveners fundamentally challenge the authority of the Presiding Officer to group/limit their participation, arguing that such conditions deny them due process. Some also argue that grouping interveners compromises the ethical duties of counsel representing those parties.

10. Both the New Hampshire statutes and rules governing intervention in administrative proceedings grant broad discretion to the Presiding Officer to impose conditions upon interveners’ participation in SEC proceedings including, but not restricted to, limiting the

issues pertaining to a particular intervenor, limiting the procedures in which a particular intervenor may participate, or combining intervenors. *See* RSA 541-A:32, III; Site 202.11(d). The presiding officer may impose such conditions to the extent that they are not “so extensive as to prevent the intervenor from protecting the interest which formed the basis of the intervention.” RSA 541-A:32, IV.

11. Moreover, both the New Hampshire Supreme Court and the New Hampshire Public Utilities Commission have recognized that due process, in the context of administrative proceedings, “is a ‘flexible’ concept varying with the nature of the governmental and private interests that are implicated.” *See Kearsarge Telephone Co.*, Order No. 24,802, at 5 (2007); *See also State v. Mwangi*, 161 N.H. 699, 703 (2011) (“[t]he requirements of due process are flexible and call for such procedural protections as the particular situation demands.”). “[W]here issues of fact are presented for resolution by an administrative agency, due process requires a meaningful opportunity to be heard.” *Appeal of Londonderry Neighborhood Coalition*, 145 N.H. 201, 205 (2000). Presumably, the requesting intervenors assert that the Presiding Officer’s conditions will deny them the meaningful opportunity to be heard.

12. In *Mathews v. Eldridge* the United States Supreme Court held that, when reviewing administrative procedures, courts will generally balance three factors:

[f]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Eldridge, 424 U.S. 319, 334-35 (1976) (citations omitted); *see also Appeal of Office of Consumer Advocate*, 148 N.H. 134, 138 (2002) (applying same standard in context of both New Hampshire and federal constitutions).

13. In this case, prior to the Order, over 160 different petitions to intervene were filed with the SEC, many of which, as the Order illustrates, were “able to identify direct and substantial interests in this matter and have a right to intervene.” Order at 47. While these interveners have a right to participate in the proceeding, the Applicants also have due process rights that include ensuring the proceeding occurs in a timely, orderly and efficient manner. The Presiding Officer was tasked with balancing these interests. The Applicants believe that, in light of the case law cited herein governing due process in these types of proceedings, the Presiding Officer accomplished this task. The groupings and limitations imposed on the interveners in the Order are fair given the circumstances and represent a proper balance of the factors governing due process analysis.

14. With regard to the claim that grouping interveners somehow compromises the ethical responsibilities of an attorney in representing their client, the Applicants disagree. As a threshold matter, interveners have been grouped in other proceedings before the PUC and SEC, and their attorneys have had no problem complying with their ethical responsibilities.

15. The New Hampshire Rules of Professional Conduct (Rules) are also instructive on this issue: “Together with the law and other regulations governing lawyers, the Rules establish the boundaries of permissible and impermissible lawyer *conduct*.” Rules of Professional Conduct, *Statement of Purpose* (emphasis supplied). The Rules are not a means of subverting otherwise sound and constitutional provisions of law. On the contrary, the Rules work in harmony with the law, including the type of SEC administrative practice at issue here.¹

16. As the docket stands today, in addition to the Applicants and Counsel for the Public, there will be more than 20 separate individuals and groups who will be participating as

¹ See Model Rules of Professional Conduct, Preamble and Scope at ¶ 15 (“The Rules presuppose a larger legal context shaping the lawyer’s role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general.”).

parties to the proceeding. The Applicants believe that administering the proceeding even with this number of parties will prove challenging for the Committee and represents the upper limit of a workable number of parties. Therefore, the Applicants urge the Committee to deny all requests regarding the conditions and groupings of the interveners.

IV. Limitations on Participation

17. The Order combined the Appalachian Mountain Club (AMC), Conservation Law Foundation (CLF), Ammonoosuc Conservation Trust (ACT) and New Hampshire Sierra Club (NHSC) as a single party and requires the group to designate a single spokesperson/attorney for the purposes of filing pleadings, conducting discovery and the examination of witnesses at evidentiary hearings. *See* Order at 34. In response to the Order, AMC, CLF and ACT (“NGOs”) filed a joint request asking the Committee to grant each organization “flexibility to coordinate among themselves” or, in the alternative, to allow them to proceed as individual parties. Toward that end the NGOs make a number of requests regarding their participation in the proceeding:

- a. They request that they be allowed to designate two points of contact for purposes of sending and receiving information from the Committee and other parties.
- b. They argue that they should not be required to appoint a single spokesperson/attorney for the purposes of filing pleadings. Rather, they argue they should be provided “flexibility” regarding which organization or spokesperson/attorney files a given pleading.
- c. They argue that they should be allowed to file separate pleadings in the event there is disagreement on a matter and to submit pleadings on behalf of some, but not all, members of the group.

- d. They argue the group should not be required to designate one attorney/spokesperson for the purposes of propounding data requests, participating in technical sessions, or the cross-examination of witnesses.
- e. They request that the group be granted up to 100 data requests for discovery.

18. The NGOs claim that “By providing our organizations flexibility in the manner in which we conduct our participation, the SEC will not in any way compromise the desired objective of ensuring an orderly proceeding.” Joint Request at 4. In fact, granting the NGOs’ requests would accomplish exactly that – it would effectively dismantle the objective of grouping the organizations and limiting their participation in the first place and would add unnecessary disruption to the proceedings.

19. Taken together, these requests, while purporting to ask only for increased flexibility, in actuality have the effect of undoing the SEC’s Order and granting the organizations the freedom to participate as independent parties. For example, the NGOs argue that they should not be required to designate an attorney/spokesperson for the purposes of propounding data requests, participating in technical sessions, or the cross-examination of witnesses. Each of these stages is critical to preserving the orderly and efficient conduct of the proceeding. Granting the NGOs autonomy in each of these stages has the potential to delay or otherwise disrupt the proceeding through the duplication of data requests and cross-examination of witnesses.

20. Given the substantial resources each of the NGOs has at its disposal and given the shared interests and objectives of these organizations, grouping and limiting the NGOs in accordance with the Order will not be so extensive as to prevent each NGO from protecting the

interest that formed the basis of intervention. Therefore, the Committee should affirm the Presiding Officer's decision and deny the NGOs' request for review.

21. NHSC filed a separate request for rehearing in which it requests review of the grouping in the Order. NHSC asserts that the grouping will "diminish and impede NHSC's ability to voice its concerns and represent its members and supporters." NHSC Request at 1. NHSC also claims that AMC, CLF and ACT have declined to collaborate with NHSC and that will prevent NHSC from fully participating as a member of the group as ordered. The Applicants object to this request.

22. Pursuant to the Order, AMC, CLF, ACT and NHSC are required to coordinate for the purposes of filing pleadings, conducting discovery and the examination of witnesses at evidentiary hearings. *See* Order at 34. These organizations' failure to do so in this instance does not, as NHSC argues, exemplify a need to review the grouping order. Rather, it demonstrates a simple failure to adhere to the procedures that each group is required to uphold in order to participate in this proceeding. In addition, as discussed above, requiring multiple similarly situated organizations to work together for certain aspects of this proceeding will not deprive NHSC of the opportunity to protect its interests.

23. The Applicants urge the Committee to deny the request and require the four organizations to hereafter coordinate their efforts as required by the Order.

V. Timely Petitions to Intervene

A. New England Power Generators Association

24. The New England Power Generators Association (NEPGA) filed a request for reconsideration of the Order denying its petition to intervene in this proceeding. NEPGA argues that the Presiding Officer (1) "failed to correctly interpret and apply the intervention standards

articulated” in the rules and (2) “erroneously concluded that the rights, duties, privileges, immunities or other substantial interests of NEPGA and its members are not adversely affected” by the proceeding. NEPGA Motion at 2. The Presiding Officer denied NEPGA’s petition to intervene because “Ensuring fair or competitive markets is not a reason for intervention and is not within the purview of the Site Evaluation Committee.” Order at 46. The Applicants agree with this determination and object to NEPGA’s request for rehearing.

25. NEPGA’s argument that the Presiding Officer effectively “got it wrong” with regard to its petition to intervene is without merit. NEPGA first claims that the Presiding Officer is incorrect in stating that ensuring fair and competitive markets is not within the purview of the Committee. To support this assertion, NEPGA points to statements made by the Applicants regarding the Project’s economic benefits to the State. It asserts that the Applicants included this information “with the express purpose of demonstrating that the project satisfies the public interest standard” of Site 301.016. NEPGA Motion at 4 (quotations omitted). However, NEPGA has failed to identify any error of fact, law or reasoning on the part of the Presiding Officer. Whether or not the Applicants include information about the financial benefits of the Project has no bearing on whether the Committee has authority to review issues relating to ensuring fair or competitive markets.

26. Next, NEPGA claims that denial of its intervention “potentially handicaps the SEC’s development of an adequate record on” the issues NEPGA included in its original petition to intervene. Ostensibly, the specific issue NEPGA alludes to here is its interest in “any proposed public interest stated by the project.” *See* NEPGA Petition at 4. In support of this claim NEPGA attaches two reports, the first examining the potential costs of the Project and the second

examining the potential costs and implications of the Project on both consumer electricity costs and the wholesale electricity market. NEPGA Motion at 5.

27. Despite these reports and claims, NEPGA has failed to demonstrate how the decision denying its petition is unlawful, unjust or unreasonable. That is, NEPGA has not demonstrated that the Presiding Officer erred in finding that NEPGA failed to establish a particular interest in the proceeding. Rather, NEPGA simply reiterates the same generalized interests it alleged in its petition to intervene with regard to the “public interest.” As the PUC has noted, and as the Applicants explain in their Objection to NEPGA’s petition to intervene, “[i]t should be recognized that being interested in such a proceeding is not the same as having a legal interest of some nature that may be affected by the proceeding.” *Re North Atlantic Energy Corporation*, 87 NHPUC 455, 456 (2002). “Merely expressing a concern about a relevant issue, no matter how well-intentioned, does not confer party status.” *Id.* The Applicants therefore urge that NEPGA’s request be denied.

B. Thomas N.T. Mullen (On behalf of himself and Peter W. Powell)

28. Mr. Mullen, in his request for rehearing, fails to demonstrate that the Presiding Officer’s decision is unlawful, unjust or unreasonable. As alleged grounds for rehearing, Mr. Mullen argues that he and Mr. Powell are the only individuals who have sought to intervene representing the real estate industry. In the Order denying Mr. Mullen’s petition to intervene, the Presiding Officer determined that “[i]nterests that are general to all residents of a community, *i.e.* effect on tourism, property values, and business, without more, are not sufficiently specific to warrant intervention.” Order at 30. Mr. Mullen has failed to provide the needed specificity required in order to establish an interest in this proceeding. His request for rehearing adds

nothing of value to his original petition to intervene. Rather, Mr. Mullen makes a number of generalized and unsubstantiated claims about the New Hampshire real estate market. These are the same claims he lodged in his original petition. Therefore, a rehearing on his petition will be entirely superfluous. His request should be denied.

C. Kris Pastoriza

29. Ms. Pastoriza submitted a letter to Administrator Monroe in which she makes a number of requests, among which is a request that she, as an abutter to the Applicant's alternate route, be accepted as an intervener. In her letter Ms. Pastoriza fails to demonstrate that the Presiding Officer's decision is unlawful, unjust or unreasonable. In her original petition, Ms. Pastoriza based her case for intervention on "levels of expertise and knowledge that may be helpful to the Subcommittee in evaluating the Project." Order at 22. The Presiding Officer determined that she had failed to demonstrate that she had a right, duty, privilege or other substantial interest that is affected by these proceedings. *Id.* Ms. Pastoriza now asserts an interest based on her proximity to an alternative route included in the Application.

30. In the Order, the Presiding Officer held that "The impact of past designs for the Project on existing properties cannot be a basis for current intervention in this docket...Prior route alignments of the Project are not before this subcommittee." Order at 30. Ms. Pastoriza fails to include any information challenging the reasonableness of the Presiding Officer's decision. Rather, she points to the fact that the alternative route was included in the Application, and offers the unsupported assertion that as long as this route is listed, "the SEC must permit an abutter group be given intervener status." Pastoriza Letter at 2. Certainly, this is insufficient for a finding of "good cause." Moreover, Ms. Pastoriza has already conducted herself in a manner

that interferes with the orderly conduct of the proceedings.² Her request should therefore be denied.

D. State Legislators

31. The Presiding Officer denied the petition to intervene signed by 4 senators and 63 state representatives (collectively, “State Legislators”) because the interests asserted in the petition are “generalized and are not sufficient to warrant intervention.” Order at 45. The State Legislators filed a motion requesting review of their petition. However, they fail to include any additional information and merely repeat the arguments made in their original petition.

32. Primarily, the State Legislators argue that their “interest” in the Committee’s interpretation of the new ‘public interest’ standard should be recognized as a substantial interest under RSA 541-A:32, I(b). In so doing, the State Legislators reaffirm that their “interest ... is to suggest and argue for the concerns [they] believe should be considered by the Committee in making its determination of what constitutes the public interest.” State Legislators Motion at 3 (underlining in original). As the Presiding Officer stated in the Order, “[e]lection to the legislature does not create the type of right, privilege, or interest that is required to be demonstrated by an intervener in an administrative adjudicatory hearing.” Order at 45. The State

² On April 1, 2016, Committee Counsel Michael Iacopino sent an email to the SEC distribution list reminding all recipients that the purpose of the list is to file motions, objections or other pleadings. He stated that “The distribution list is not intended to be used to file public comments or for communication amongst the parties that does not involve the filing of documents with the Committee.” He further stated “The distribution list is not designed to be a means to debate the issues in the case. That debate should take place in the testimony and exhibits, cross examination, legal memoranda and public comment all of which constitute the legal record for this proceeding and will be considered by the Committee. *Please do not use this list for the purposes of communication with other parties or for the purpose of posting an argument for or against the project.*” [Emphasis added]. Ms. Pastoriza was an addressee on that email. Nevertheless, on April 6, 2016 Ms. Pastoriza, blatantly disregarding Mr. Iacopino’s email, sent an email to the SEC distribution list. Among her improper assertions, she falsely implied that NPT failed to give proper notice to necessary parties in a related PUC docket. In fact, NPT fully complied with all legal notice requirements in that docket. Ms. Pastoriza’s refusal to comply with Committee practice and procedures is a further reason to reject her individual intervention petition and also calls into question whether she should be permitted to continue to participate in this docket on behalf of the Easton Conservation Commission.

Legislators have failed to assert any justification for challenging this decision and their request should be denied.

E. Additional Requests By Petitioners Whose Petitions were Denied

33. To the extent that the Applicants overlooked a request by a petitioner whose petition to intervene was denied, the Applicants respectfully request that the Committee apply the appropriate standard in determining whether said petitioner has a right to rehearing. To the extent that such requests are procedurally improper, do not state the grounds for rehearing, or fail to demonstrate that the committee's decision is unlawful, unjust or unreasonable, the Applicants hereby object to the request for rehearing.

VI. Late-Filed Petitions to Intervene

34. A number of petitioners filed untimely petitions to intervene in which they assert an interest in the proceeding based on their proximity to an alternative route included in the Application.

35. The Applicants believe these late-filed petitions should be denied for two reasons. First, ensuring the orderly and prompt conduct of these proceedings given the unique nature of this case may be a challenge. To meet this challenge, it is imperative that deadlines and established procedures for case management be respected. Second, the petitioners each seek to intervene based on their property's proximity to an alternative route the Applicants included in the Application as well as the Additional Materials filed to supplement the Application. The petitioners assert that the reason they did not file by the February 5, 2016 deadline is that the Applicants did not submit this information until February 26, 2016. This claim is wrong.

36. In the original Application filed on October 19, 2015 the Applicants, as required at the time by Site 301.03(h)(2) and RSA 162-H:7,V(b), identified the former route identified in

its 2013 amended application to the DOE to be available. *See* Application at 44. Each late-filing petitioner had notice of this alternative route and should not be excused from failing to adhere to the procedural schedule set out by the Committee.

37. With regard to the alternative route argument, in the cover letter accompanying the Additional Information, the Applicants accurately explained that, while the rules require the inclusion of information about alternative routes, the prior proposed route is not actually under consideration before the Committee. Therefore, it cannot be a basis for intervention. The Presiding Officer noted as much in the Order stating “The impact of past designs for the Project on existing properties cannot be a basis for current intervention in this docket...Prior route alignments of the Project are not before this subcommittee.” Order at 30. Therefore, all late-filed petitions to intervene should be denied.

VII. Clarifying the Committee’s Intent Regarding Limitations

38. In light of the responses submitted relating to the Order, the Applicants request that the Committee clarify the rights and responsibilities of the parties subject to the limitations imposed. Specifically, the Applicants note that there was some confusion at the Prehearing Conference held March 22, 2016 regarding the requirement to appoint a spokesperson. It is apparent that some groups understand this to mean that each group is required to hire representation for purposes of filing pleadings, conducting discovery and for examination at evidentiary hearings. The Applicants believe it would benefit all parties to get a better understanding of the role the spokesperson will play and the responsibilities required of each spokesperson.

39. In addition, given the number of parties (and individuals making up those parties) in this proceeding, it would behoove the Committee to explain in detail the rights and

responsibilities of parties to this proceeding. Although a number of parties are familiar with the protocols for participating in SEC proceedings, others are wholly unfamiliar. For that reason, there exists substantial risk for delay if issues with procedure and substances continue to arise throughout the hearing process. The Applicants request that the Committee explain the responsibilities of the parties to adhere to the administrative rules and the consequences for failing to do so. *See e.g.* Footnote 2.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Deny the requests to review petitions to intervene;
- B. Deny all late-filed petitions to intervene;
- C. Confirm the interveners as laid out in the Order; and
- D. Grant such further relief as is deemed 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: April 7, 2016

By: 

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Certificate of Service

I hereby certify that on the 7th of April, 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

**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**

May 20, 2016

SUBCOMMITTEE ORDER ON REVIEW OF INTERVENTION

I. Background

On October 19, 2015, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively Applicant) submitted an Application to the New Hampshire Site Evaluation Committee (Committee) for a Certificate of Site and Facility (Application) to construct a 192-mile transmission line. The transmission line, sometimes referred to herein as the Project, is proposed to have a capacity rating of up to 1,090 MW, and to run through New Hampshire from the Canadian border in Pittsburg to Deerfield.

On November 2, 2015, pursuant to RSA 162-H:4-a, the Chairman of the Committee appointed a Subcommittee (Subcommittee) to consider the Application.

The Subcommittee received over 160 petitions to intervene. On March 18, 2016, the Presiding Officer issued an Order on Petitions to Intervene granting intervention and combining intervenors in the following groups:

1. Towns, Town Governing Bodies, Municipal Sub-Units, Conservation Commissions, Grafton County Commissioners, Rick Samson, Local Government Entities

a. Towns, Bodies, Municipal Sub-Units and Conservation Commissions

- **Municipal Group 1** – Pittsburg, Clarksville, Stewartstown, Colebrook, Northumberland, Whitefield (Board of Selectmen and Planning Board), Dalton (Board of Selectmen and Conservation Commission), Bethlehem (Board of Selectmen, Planning Board and Conservation Commission); and Littleton – as a group;

- **Municipal Group 2** –Sugar Hill, Franconia (Board of Selectmen, Planning Board, and Conservation Commission), Easton (Board of Selectmen, Planning Board, and Conservation Commission), Woodstock, and Plymouth – as a group;
 - **Municipal Group 3** - Holderness (Board of Selectmen and Conservation Commission), Ashland (Board of Selectmen, Conservation Commission and Water & Sewer Department), Bridgewater, New Hampton, Bristol, Canterbury, Concord, Pembroke (Board of Selectmen and Conservation Commission), and Deerfield (Board of Selectmen, Planning Board, and Conservation Commission) – as a group.
 - City of Franklin – as a full party.
- b. Grafton County Commissioners and Coos County Commissioner Rick Samson – as a group
- Grafton County Commissioners; and
 - Commissioner Rick Samson.

2. **Individual Parties**

- a. Abutting Property Owners: Clarksville – Dalton
- i. *Clarksville-Stewartstown Abutting Property Intervenors (underground portion of the Project), as a group*
- Charles and Donna Jordan;
 - Sally A. Zankowski;
 - Jon and Lori Levesque;
 - Roderick and Donna McAllaster;
 - Lynne Placey;
 - Arlene Placey;
 - Brad and Daryl Thompson;
 - David Schrier; and
 - Nancy L. Dodge.
- ii. *Dummer, Stark, Northumberland, Whitefield, and Dalton Abutting Property Intervenors (overhead portion of the Project), as a group*
- R. Eric Jones and Margaret J. Jones;
 - Elmer C. Lupton and Claire C. Lupton;
 - Mary Boone Wellington;
 - Bruce and Sondra Brekke;
 - Elaine V. Olson;
 - Eric M. Olson;
 - Joshua Olson;
 - Elaine V. Olson;
 - Kevin Spencer;

- Rodrigue J. and Tammy L. Beland;
- Susan E. Percy for Percy Summer Club;
- Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC;
- Robert Heath;
- James and Judy Ramsdell;
- Charles and Cynthia Hatfield;
- Donald and Betty Gooden; and
- Tim and Brigitte White.

b. Non-Abutting Property Owners: Clarksville – Bethlehem¹, as a group

- Robert Martin;
- Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady and Christopher Thompson;
- E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents);
- Mark W. Orzeck and Susan Orzeck;
- John W. Davidge for Prospect Farm-Lancaster, LLC;
- Linda Upham-Bornstein;
- Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust;
- Richard M. McGinnis;
- Frederic P. Fitts;
- Gerald and Vivian Roy;
- Edward A. Piatek;
- Frank and Kate Lombardi;
- Marsha J. Lombardi;
- Alexandra M. Dannis and James G. Dannis;
- David Van Houten;
- Wendy Doran; and
- Andrew D. Dodge.

c. Abutting Property Owners: Bethlehem² – Plymouth, as a group

- Nigel Manley and Judy Ratzel;
- Russel and Lydia Cumbee;
- Walter Palmer and Kathryn Ting;
- G. Peter and Mary S. Grote;
- Paul and Dana O'Hara;
- Virginia Jeffreys;
- Carol Dwyer;
- Gregory and Lucille Wolf;
- Susan Schibanoff;
- Ken and Linda Ford;
- Campbell McLaren, M.D.;

¹ Bethlehem – overhead portion of the Project.

² Bethlehem – underground portion of the Project.

- Eric and Barbara Meyer;
 - Robert W. Thibault;
 - Dennis Ford;
 - Carl Lakes and Barbara Lakes;
 - Bruce D. Ahern; and
 - Frank Pinter.
- d. Non-Abutting Property Owners: Bethlehem – Plymouth, as a group³
- Lee Sullivan and Stephen Buzzell;
 - Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey; and Matthew Steele, individually and as owners of 41 Dyke Road, LLC.
- e. Abutting Property Owners: Ashland – Deerfield, as a group
- Carol Currier;
 - Mary A Lee;
 - Craig and Corinne Pullen;
 - McKenna’s Purchase Unit Owners Association;
 - Taras and Marta Kucman;
 - Kelly Normandeau;
 - Laura M. Bonk;
 - Philip H. Bilodeau and Joan C. Bilodeau;
 - Erick B. Berglund Jr. and Kathleen A. Berglund;
 - Rebecca Hutchinson;
 - Torin Judd and Brian Judd;
 - Jo Anne Bradbury;
 - Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership;
 - Jeanne M. Menard for Peter F. Menard and Anne K. Burnett;
 - Kevin and Lisa Cini;
 - Bruce A. Adami and Robert J. Cote; and
 - Eric and Sandra Lahr.

³ Easton and Sugar Hill.

- f. Non-Abutting Property Owners: Ashland – Deerfield, as a group
 - Joanna and Robert Tuveson;
 - Nina and Elisha Gray;
 - Rodney Felgate and Laura Felgate;
 - The Webster Family Group;
 - Lawrence Phillips and Maxine Phillips;
 - Lisa Wolford and Pamela Hanglin;
 - F. Maureen Quinn;
 - Madelyn and Thomas Foulkes; and
 - Jeanne M. Menard as a managing member of Pawtuckaway View, LLC.

3. Non-Governmental Organizations

- a. Society for the Protection of New Hampshire Forests – as single party;
- b. Appalachian Mountain Club, Conservation Law Foundation, Sierra Club Chapter of New Hampshire, and Ammonoosuc Conservation Trust – as a group; and
- c. Sugar Hill Historical Museum, New Hampshire Preservation Alliance and National Trust for Historic Preservation, North Country Scenic Byways Council – as a group.

4. Businesses and Organizations with Economic Interests

- a. Cate Street Capital, Inc. and City of Berlin – as a group;
- b. International Brotherhood of Electrical Workers – as single party;
- c. Coos County Business and Employers Group – as single party;
- d. North Country Chamber of Commerce – as single party;
- e. Dixville Capital, LLC and Balsams Resort Holdings, LLC – as single party; and
- f. Wagner Forest Management – as single party.

5. Pemigewasset River Local Advisory Committee - as single party.

II. Intervention

A. Standard for Intervention

The New Hampshire Administrative Procedure Act provides that an administrative agency must allow intervention when:

- (a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least 3 days before the hearing;
- (b) The petition states facts demonstrating that the petitioner's rights, duties, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervener under any provision of the law; and

(c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

See RSA 541-A:32, I. The statute also permits the presiding officer to allow intervention “at any time upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.” RSA 541-A:32, II. The Committee’s rules contain similar provisions. *See* N.H. CODE ADMIN. R. ANN. Site 202.11 (b)-(c).

Pursuant to RSA 162-H:4, V, the presiding officer is authorized to rule on petitions for intervention. The Administrative Procedure Act and our procedural rules also allow the presiding officer to place limits on an intervenor’s participation. *See* RSA 541-A:32, III; N.H. CODE ADMIN. R. ANN. Site 202.11(d). The presiding officer may limit the issues pertaining to a particular intervenor, limit the procedures in which a particular intervenor may participate, or combine intervenors and other parties for the purposes of the proceeding so long as the limitations placed on intervenors do not prevent the intervenor from protecting an interest that formed the basis of intervention. *See* N.H. CODE ADMIN. R. ANN. Site 202.11(d). Any party aggrieved by a decision on a petition to intervene may within 10 calendar days request that the committee review such decision. *See* RSA 162-H:4, V.

Following the issuance of the Order on Petitions to Intervene, (Order) the Subcommittee received numerous motions to correct and clarify the Order and have the Subcommittee review the Presiding Officer’s Order under RSA 162-H:4, V, regarding groupings and denials, and motions to clarify and address procedural issues associated with intervenors participation in the groups. The Subcommittee also received additional untimely petitions to intervene.

On April 7, 2016, the Applicant objected to various motions.

On April 12, 2016, the Subcommittee conducted a hearing on pending motions. During the hearing, the Subcommittee reviewed and addressed petitions to reconsider the groupings of

intervenors and denials or requests to intervene, additional requests to intervene, requests to correct the Order, and requests to clarify procedural issues raised in this docket. This Order memorializes the Subcommittee's decisions.

B. The Motions to Review Groups of Intervenors

The Subcommittee received motions to review the groupings of intervenors from the intervenors that were combined in the following groups: (i) Municipal Group 1; (ii) Municipal Group 2; (iii) Municipal Group 3; (iv) Grafton County Commissioners and Coos County Commissioner Rick Samson; (v) Abutting Property Owners: Clarksville-Dalton – underground portion of the Project; (vi) Abutting Property Owners: Dummer-Dalton – overhead portion of the Project; (vii) Non-Abutting Property Owners: Clarksville-Bethlehem; (viii) Abutting Property Owners: Bethlehem-Plymouth; (ix) Abutting Property Owners: Ashland-Deerfield; (x) joined motion filed by individuals from various groups of intervenors; (xi) Appalachian Mountain Club, Conservation Law Foundation, Sierra Club Chapter of New Hampshire, and Ammonoosuc Conservation Trust; and (xii) Cate Street Capital, Inc. and City of Berlin. This Order will address each motion within each identified group.

1. Municipal Group 1

The Bethlehem Board of Selectmen, Planning Board, and Conservation Commission each filed motions to allow them to participate in these proceedings as one group of intervenors. They argue that their interests are unique because the transition station, as well as underground and overhead portions of the Project, will be located within the Town. They further argue that they have a unique interest in addressing the effect of the Project on the Ammonoosuc River, Miller/Baker Brook Pond, and wetlands. They further assert that the municipalities that were combined in Municipal Group 1 are geographically separated and located so far away from each other that it makes it impractical and impossible for the Town of Bethlehem to represent its interest in this docket.

The Town of Bethlehem Board of Selectmen, Planning Board, and Conservation Commission's concerns are similar to the concerns raised by other municipalities combined in Municipal Group 1 in this docket. The Towns of Pittsburg, Clarksville, and Stewartstown will also have transition stations and overhead and underground portions of the Project located within them. They are also concerned about the effect of the Project on wetlands, the economy, and property values. The Bethlehem Board of Selectmen, Planning Board, and Conservation Commission's ability to represent and protect their interests will not be diminished by the grouping with other municipalities. The Bethlehem Board of Selectmen, Planning Board, and Conservation Commission's request to designate them as single group of intervenors is denied.

It is apparent, however, that the towns in the northern portion of the Project are significantly removed and geographically separated from the southern towns included in Municipal Group 1. The Subcommittee finds that it is prudent to grant the Bethlehem Board of Selectmen, Planning Board, and Conservation Commission's request to review the grouping of municipalities in Municipal Group 1 and re-group Municipal Group 1 in two groups, each of which can participate as a single group in this docket:

- **Municipal Group 1 North** – Pittsburg, Clarksville, Stewartstown, and Colebrook; and
- **Municipal Group 1 South** – Northumberland, Whitefield (Board of Selectmen and Planning Board), Dalton (Board of selectmen and Conservation Commission), Bethlehem (Board of Selectman, Planning Board and Conservation Commission), and Littleton.

The Subcommittee finds that the consolidation of Towns into two groups of intervenors will not impair the ability of any Town from protecting any interests that formed the basis of their intervention.

2. Municipal Group 2

The Subcommittee received a motion to review from the Easton Conservation Commission (ECC). ECC asserts that Municipal Group 2 is too large and it will be extremely difficult and time consuming to coordinate participation of all municipalities in this group. ECC further expresses its concerns that the grouping of the intervenors in Municipal Group 2 will deprive them of their due process rights and will unduly burden the spokesperson for the group. ECC requests that the Subcommittee allow it to participate in these proceedings as a group consisting of the Easton, Sugar Hill, and Franconia Conservation Commissions.

The Sugar Hill Conservation Commission (SHCC) did not request and was not granted intervention status. ECC's participation in this docket cannot be combined with a non-intervenor. The ECC's request to be grouped with the SHCC is denied.

ECC failed to state any facts that would indicate that it will be precluded from asserting and protecting its rights and interests as a part of Municipal Group 2. Municipal Group 2 consists of nine intervenors representing the interests of five towns. All intervenors in this group express substantially similar concerns about the effect of the Project on natural resources, orderly development, aesthetics, health, economy, tourism, and property values. Nothing precludes ECC from stating and defending its interests as a part of the group. As to the practical concerns, it is undisputed that municipalities in this group will have to coordinate their participation and it may entail some level of inconvenience. The inconvenience associated with the grouping, however, does not rise to a level that makes it impossible for ECC to assert its rights and interests. ECC's motion is denied.

3. Municipal Group 3

The Subcommittee received petitions to review the grouping of intervenors in Municipal Group 3 from the following intervenors: (i) Ashland Conservation Commission (ACC); (ii) Water & Sewer Department of the Town of Ashland; and (iii) City of Concord.⁴

a. Ashland Conservation Commission and Water & Sewer Department

The Water & Sewer Department of the Town of Ashland argues that its interests are unique and it should be allowed to intervene as a separate party because of the Project's close proximity and effect on the Towns' well fields and the wastewater treatment facility. The ACC did not request participation as an individual intervenor in this docket. It asserts, however, that Municipal Group 3 should be reconfigured because the group is excessively large and impractical.

The Project will have some effect on wetlands and surface water in all towns combined in Municipal Group 3. Both the ACC and the Ashland Water & Sewer Department may raise their concerns about the Project's impact on wetlands and surface waters of the Town of Ashland as members of the Municipal Group 3 of intervenors. Similarly, nothing precludes ACC and the Water & Sewer Department from addressing their concerns about the impact of the Project on the Town's well fields and the wastewater treatment facility as a part of the Group's participation and representation. The ACC's and the Ashland Water & Sewer Department's motions are denied.

b. City of Concord

The City of Concord requests separate and independent intervenor status. Concord argues that it will be precluded from protecting its interests if it must coordinate its participation with other members of the group. In support, it asserts that its interests are unique and independent because the Project will have a greater impact on Concord than any other municipality in New

⁴ The Subcommittee also received a motion to review filed by the Deerfield Conservation Commission requesting status as an independent intervenor. The Motion was withdrawn, however, and requires no further consideration.

Hampshire. Specifically, the City of Concord asserts that 8.1 miles of the Project will cross heavily populated residential and industrial sections of the City and will affect residents and businesses of the City. Concord claims that the Project will affect property values and may have a negative effect on the environmental surrounding of Turtle Pond and on the threatened Karner Blue butterfly. Concord argues that it owns real estate that will be affected by the Project and should be allowed to intervene as a separate and independent intervenor. Concord also asserts that other municipalities in Municipal Group 3 have different and unique concerns that cannot be addressed by the City. Concord states that the grouping will effectively limit its participation because it is not feasible to collaborate with municipalities that are unrepresented and remotely located. Concord also argues that its Counsel will not be able to act as a spokesperson for the group. Concord states that the grouping of municipalities is unprecedented and that municipalities have historically been allowed to participate in the adjudicatory process as separate parties.

The City of Concord failed to demonstrate that its interests are so unique that they cannot be addressed if it is required to participate as a member of Municipal Group 3. All the towns in Municipal Group 3 raise substantially similar concerns about the effect of the Project on residents, the natural environment, wetlands, aesthetics, orderly development of the region, and property values. Concord may address concerns that are more specific for the City as a part of its participation with the other municipalities that were combined in Municipal Group 3. Furthermore, although it may be difficult for the representatives of Concord to collaborate with other towns that are unrepresented, that alone is not a basis for granting independent intervenor status. However, Concord's argument that the grouping of a large number of municipalities that are geographically remote from each other may preclude it from effectively protecting its interests in this docket is valid. Concord's request is denied to the extent that it requests

participation as an independent intervenor in this docket and granted to the extent the City requests reconfiguration of Municipal Group 3. The Subcommittee finds it reasonable to reconfigure Municipal Group 3 to ensure that all municipalities will have an opportunity to address the issues raised in this docket in the following groups:

- **Municipal Group 3 North** – Holderness (Board of Selectmen and Conservation Commission), Ashland (Board of Selectmen, Conservation Commission, and Water & Sewer Department), Bridgewater, New Hampton, and Bristol; and
- **Municipal Group 3 South** – Canterbury, Concord, Pembroke (Board of Selectmen, and Conservation Commission), and Deerfield (Board of Selectmen, Planning Board, and Conservation Commission).

4. Joint Motion – Bristol, Easton, Franconia, Northumberland, Sugar Hill, Whitefield, Bridgewater, Littleton, New Hampton, and Woodstock

The Towns of Bristol, Easton, Franconia, Northumberland, Sugar Hill, Whitefield, Bridgewater, Littleton, New Hampton, and Woodstock filed a joint motion asking the Subcommittee to allow each town to participate as an independent intervenor in this docket. The Towns assert that their grouping with other municipalities is unnecessary and unfair. They argue further that grouping will prevent them from protecting their individual interests. Finally, the Towns assert that a single spokesperson requirement places unnecessary and unfair restrictions on their ability to effectively use legal counsel.

The New Hampshire Code of Administrative Rules Site 202.11(d) specifically authorizes the presiding officer to group intervenors to ensure the orderly conduct of the proceedings so long as the limitations placed on intervenors do not prevent the intervenors from protecting an interest that formed the basis of intervention. *See* N.H. CODE ADMIN. R. ANN. Site 202.11(d). The Towns of Bristol, Easton, Franconia, Northumberland, Sugar Hill, Whitefield, Bridgewater, Littleton, New Hampton, and Woodstock failed to demonstrate that they will be precluded from asserting their interests if they are grouped with other municipalities. As indicated below,

nothing precludes the Towns that disagree with the position of other intervenors within their groups from advising the Subcommittee of the disagreement and from filing pleadings stating their position. To ensure the orderly conduct of these proceedings, however, the Towns should be combined with other Towns with substantially similar interests and should coordinate the representation of their interests with other members of the group. The argument that the New Hampshire Code of Professional Conduct prevents the Towns' attorneys from collaborating with other Towns is equally unpersuasive. The Towns' representatives can and are required to represent the interests of their clients. Their ability to represent the interests of their clients is not affected by the grouping. The motion filed by the Towns of Bristol, Easton, Franconia, Northumberland, Sugar Hill, Whitefield, Bridgewater, Littleton, New Hampton, and Woodstock is denied.

5. Grafton County Commissioners and Coos County Commissioner Rick Samson

The Grafton County Commissioners assert that they cannot be combined in a group with Coos County Commissioner Rick Samson because their representative is not authorized to represent the interests of Coos County. The Grafton County Commissioners are concerned that a spokesperson will be viewed as a spokesperson for Commissioner Samson and that will be misleading to the public.

Similarly, Commissioner Samson argues that his participation cannot be combined with the Grafton County Commissioners because he represents the interests of citizens of his District that is located in Coos County. Although both the Grafton County Commissioners and Commissioner Samson asked to participate in this docket as independent intervenors, Commissioner Samson also indicated that, in the alternative, he would agree to be grouped with Municipality Group 1 North because the Towns comprising this group are located within his District.

The orderly development of these proceedings will not be disrupted by joining Commissioner Samson with intervenors from Municipal Group 1 North and allowing the Grafton County Commissioners to proceed as an independent intervenor. While not necessary, joining Commissioner Samson with intervenors from Municipal Group 1 North tends to avoid confusion as to which interests and Towns are represented by Commissioner Samson. Similarly, allowing the Grafton County Commissioners to proceed as an independent party, while not necessary, will avoid confusion as to which interests they represent in this docket. The Grafton County Commissioners' motion to reconsider is granted. Commissioner Samson's motion to reconsider is granted in part and denied in part. Commissioner Samson is not allowed to proceed in this docket as an independent intervenor. His, participation, however, shall be combined with intervenors from Municipal Group 1 North.

6. Abutting Property Owners: Clarksville-Dalton

a. Underground Portion of the Project

Jon and Lori Levesque assert that they co-signed a petition presented by the Dixville Notch-Harvey Swell Location residents and support their position. It is unclear whether Jon and Lori Levesque want the Subcommittee to allow them to participate as independent intervenors in this docket. It is further unclear what standing they have to assert the position of residents of Stewartstown and Colebrook while residing in Clarksville. To the extent that Jon and Lori Levesque seek reconfiguration of their group, they failed to state any facts warranting such reconfiguration. Their motion is denied.⁵

b. Overhead Portion of the Project

⁵ Daryl Thomson is an intervenor whose participation was combined with other intervenors in the Abutting Property Owners: Clarksville-Dalton group of intervenors. His motion asks only that the Subcommittee correct the grouping. It will be addressed, therefore, in a different section of this Order. Furthermore, David Schrier filed a joint petition with intervenors from other intervenor groups. His petition will be addressed in a different section of this Order.

The Subcommittee received motions from the following individual intervenors: (i) R. Eric Jones and Margaret J. Jones; (ii) Bruce and Sondra Brekke; (iii) Susan E. Percy for Percy Summer Club; and (iv) Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC. The intervenors assert that it is unfair and not practicable for them to be combined with other intervenors. They further assert that grouping them with other intervenors will preclude them from asserting their interests, because their property and the impact of the Project on their properties is substantially different from properties owned by other intervenors in the group.

Although the intervenors own different pieces of real estate, the effects of the Project on their properties are not so substantially different that they will be precluded from representing their interests while being a part of the group. It is apparent, however, that the group includes intervenors from Towns that are geographically remote from each other. As a matter of convenience, the Abutting Property Owners: Clarksville-Dalton (overhead proportion of the Project) group of intervenors shall be reconfigured into the following two groups of intervenors:

- i. Dummer, Stark, and Northumberland Abutting Property Intervenors (overhead portion of the Project), as a group*
 - R. Eric Jones and Margaret J. Jones;
 - Elaine V. Olson;
 - Eric M. Olson;
 - Joshua Olson;
 - Elaine V. Olson;
 - Kevin Spencer;⁶
 - Rodrigue J. and Tammy L. Beland;
 - Susan E. Percy for Percy Summer Club;
 - Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC; and
 - Robert Heath.
- ii. Whitefield, Dalton, and Bethlehem, Abutting Property Intervenors (overhead portion of the Project), as a group*
 - Elmer C. Lupton and Claire C. Lupton;
 - Mary Boone Wellington;
 - Bruce and Sondra Brekke;

⁶ On February 4, 2016, Kevin Spencer withdrew his motion to intervene individually in this docket.

- James and Judy Ramsdell;
- Charles and Cynthia Hatfield;
- Donald and Betty Gooden;
- Tim and Brigitte White; and
- David Van Houten.

Therefore, motions filed by R. Eric Jones and Margaret J. Jones, Bruce and Sondra Brekke, Susan E. Percy for Percy Summer Club, and Mark Lagasse and Kevin Spencer for Lagaspense Realty, LLC are denied to the extent they seek independent intervenor status. To the extent said motions request reconfiguration of the Abutting Property Owners: Clarksville-Dalton (overhead portion of the Project) group, they are granted.

7. Non-Abutting Property Owners: Clarksville-Bethlehem

The Subcommittee received motions from the following intervenors that were combined in the Non-Abutting Property Owners: Clarksville-Bethlehem Group: (i) E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents); (ii) Mark Orzeck and Susan Orzeck (Stark); (iii) Linda Upham-Bornstein (Lancaster); (iv) Rebecca Weeks Sherrill More, PhD, for the Weeks Lancaster Trust (Lancaster); (v) Frederic P. Fitts (Whitefield); (vi) Alexandra M. Dannis and James G. Dannis (Dalton); (vi) David Van Houten (Bethlehem); and (vii) Andrew D. Dodge (Bethlehem).

Each intervenor asked the Subcommittee to allow him/her to participate in this docket as an independent intervenor. They all argue that they will be precluded from asserting and protecting their individual interests because the group is excessively large and contains too many intervenors from towns that are too remote from each other. They further assert that combining them in such a large group of intervenors will deprive them of their constitutional rights. In addition, Mr. Dodge argues that he will not be able to represent his interests as a part of the group because his interests relate to particular effects of a specific tower on his property.

Finally, Mr. Van Houten advised the Subcommittee that he purchased real estate that the Project

will cross and asked the Subcommittee, in the alternative, to combine his participation with the abutting property owners group of intervenors.

The intervenors in this group share substantially similar interests and express substantially similar concerns. However, the group encompasses towns that are fairly distant from each other. The grouping also contains intervenors who own property along an existing right-of-way and intervenors that would live along a new right-of-way. Therefore, the Subcommittee finds that although individual intervention is not warranted in this docket, the group of Non-Abutting Property Owners: Clarksville-Bethlehem intervenors should as a matter of convenience be reconfigured in a manner that will better support collaboration. The Non-Abutting Property Owners: Clarksville-Bethlehem group of intervenors shall be reconfigured as follows:

- i. *Non-Abutting Property Owners: Clarksville and Stewartstown, as a group*
 - Robert Martin;
 - Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady and Christopher Thompson; and
 - E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents).
- ii. *Non-Abutting Property Owners: Stark, Lancaster, Whitefield, Dalton, and Bethlehem⁷, as a group*
 - Mark W. Orzeck and Susan Orzeck;
 - John W. Davidge for Prospect Farm-Lancaster, LLC;
 - Linda Upham-Bornstein;
 - Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust;
 - Richard M. McGinnis;
 - Frederic P. Fitts;
 - Gerald and Vivian Roy;
 - Edward A. Piatek;
 - Frank and Kate Lombardi;
 - Marsha J. Lombardi;
 - Wendy Doran;
 - Alexandra M. Dannis and James G. Dannis; and
 - Andrew D. Dodge.

⁷ Bethlehem – overhead portion of the Project.

The motions filed by Bradley J. Thompson on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents), Mark Orzeck and Susan Orzeck, Linda Upham-Bornstein, Rebecca Weeks Sherrill More, PhD, for the Weeks Lancaster Trust, Frederic P. Fitts, Alexandra M. Dannis and James G. Dannis, David Van Houten, and Andrew D. Dodge are denied to the extent they request independent intervenor status. The motions filed by Rebecca Weeks Sherrill More, PhD, for the Weeks Lancaster Trust, Linda Upham-Bornstein, Mark W. Orzeck and Susan Orzeck, Frederic Fitts, and Bradley J. Thompson on behalf of 44 residents of Stewartstown and Colebrook are granted to the extent they request reconfiguration of the Non-Abutting Property Owners: Clarksville-Bethlehem group of intervenors into two groups: (i) residents of Clarksville and Stewartstown; and (ii) residents of Stark, Lancaster, Whitefield, Dalton, and Bethlehem.

David Van Houten's motion is granted to the extent that it asks to be put into the Abutting Property Owners: Clarksville – Bethlehem (Whitefield, Dalton, and Bethlehem Abutting Property Intervenor (overhead portion of the Project) group of intervenors.

8. Abutting Property Owners: Bethlehem-Plymouth⁸

Walter Palmer, as a speaker for the Abutting Property Owners: Bethlehem-Plymouth group, filed a motion requesting the Subcommittee exclude Bruce Ahern from the group. Mr. Ahern filed his own motion making a similar request. Both Mr. Ahern and Mr. Palmer state that Mr. Ahern's interests are too different from the interests of other members of the group, and that he will be precluded from asserting his interests as a member of the group. Mr. Ahern also states that he disputes the Applicant's right to construct the Project within the right-of-way that encumbers his property and that other intervenors in his group reside in different locations and their interests concern different portions of the right-of-way.

⁸ Bethlehem – underground portion of the Project.

Although Mr. Ahern resides in a different location, his interests are substantially similar to the interests of other intervenors in this group. Neither Mr. Palmer nor Mr. Ahern state any facts that would demonstrate that Mr. Ahern, in fact, will be precluded from stating and protecting his interests as a member of the group. Mr. Palmer's and Mr. Ahern's motions are denied.

The Subcommittee also received a motion from Carl and Barbara Lakes. The Lakes do not explicitly ask the Subcommittee to allow them to participate as independent intervenors. They state their position that intervenors should be grouped by town and that intervenors that are represented by lawyers should not be combined in the same group with unrepresented individuals. The Lakes do not state any facts that would demonstrate that their interests will be restricted as a result of grouping with other intervenors. Carl and Barbara Lakes' motion is denied.

9. Abutting Property Owners: Ashland-Deerfield

The Subcommittee received motions from the following intervenors that were combined in the Abutting Property Owners: Ashland-Deerfield group: (i) McKenna's Purchase Unit Owners Association; (ii) Philip H. Bilodeau and Joan C. Bilodeau; (iii) Erik B. Berglund Jr. and Kathleen A. Berglund, Rebecca Hutchinson, Torin Judd and Brian Judd, Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership, Jeanne M. Menard for Peter F. Menard and Anne K. Burnett, Kevin and Lisa Cini, Bruce A. Adami and Robert J. Cote, and Eric and Sandra Lahr; and (iv) Jo Anne Bradbury.

a. McKenna's Purchase Unit Owners Association

The McKenna's Purchase Unit Owners Association asks to participate as an independent party in this docket. In support, the McKenna's Purchase Unit Owners Association states that it

represents 148 individual property owners who have profound and substantial interests that can be fully addressed only if it can participate as an independent intervenor.

The McKenna's Purchase Unit Owners Association's interests are substantially similar to the interests asserted by others in the Abutting Property Owners: Ashland-Deerfield group. There is nothing in the record that would indicate that the McKenna's Purchase Unit Owners Association's ability to represent and address its interests will be impaired as a result of grouping with other intervenors. The McKenna's Purchase Unit Owners Association's motion is denied.

b. Philip H. Bilodeau and Joan C. Bilodeau

Philip H. Bilodeau and Joan C. Bilodeau state that they should be allowed to intervene as an independent intervenor in these proceedings because their property interest will be uniquely affected as a result of construction and operation of the Project. Specifically, the Bilodeaus state that the Deerfield Substation that the Applicant seeks to upgrade and expand, is located in close proximity to their property and will have a substantial adverse effect on their property. The Bilodeaus agree to limit the scope of their participation to the effect of the Project on their property.

Pursuant to the Subcommittee's request, the Applicant filed a map depicting the Bilodeau property in relation to the Deerfield Substation. It is clear from the map and testimony that the construction of an expanded substation adjacent to the Bilodeau property will have a substantial effect on the Bilodeau property. The Bilodeau's interest in protecting their property is specific and very limited in scope. These interests will be better presented if Philip H. Bilodeau and Joan C. Bilodeau are allowed to intervene as an independent intervenor in this docket on a limited basis. Therefore, Philip H. Bilodeau and Joan C. Bilodeau's motion is granted in part and denied in part. Philip H. Bilodeau and Joan C. Bilodeau may participate as an independent intervenor. Their intervention, however, shall be limited to the effect of the Project on their property.

- c. Erik B. Berglund Jr. and Kathleen A. Berglund, Rebecca Hutchinson, Torin Judd and Brian Judd, Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership, Jeanne M. Menard for Peter F. Menard and Anne K. Burnett, Kevin and Lisa Cini, Bruce A. Adami and Robert J. Cote, and Eric and Sandra Lahr

The following intervenors residing in the Town of Deerfield filed a joint motion requesting to participate as an independent group of intervenors: (i) Erik B. Berglund Jr. and Kathleen A. Berglund; (ii) Rebecca Hutchinson; (iii) Torin Judd and Brian Judd; (iv) Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership; (v) Jeanne M. Menard for Peter F. Menard and Anne K. Burnett; (vi) Kevin and Lisa Cini; (vii) Bruce A. Adami and Robert J. Cote; and (viii) Eric and Sandra Lahr.

The Deerfield residents state that they share common concerns about the effect of the Project on their properties, the natural environment, and wetlands and that their interests will be better protected if they can participate as an independent group.

The Deerfield residents, to date, have demonstrated a cohesiveness and unity of purpose. The orderly and prompt conduct of these proceedings will not be impaired by allowing the Deerfield residents to intervene as a separate group. The joint motion is granted.

- d. Jo Anne Bradbury

Jo Anne Bradbury states that she should be allowed to intervene as an independent party because her interests cannot be adequately addressed if she is required to participate as a member of a group. Specifically, Ms. Bradbury asserts that she is responsible for the maintenance and repair of the road that the Applicant seeks to use to access the Project. She further submits that, as a person who is responsible for the repair and maintenance of the road, she will be substantially impacted by the Applicant's use of the road and that the Project will have a substantial negative financial impact on her. She concludes that she can protect her rights, privileges, and interests only if she is allowed to participate as an independent intervenor. Ms.

Bradbury objects to the limitation of the scope of her intervention in this docket and, in the alternative, requests that she is grouped with the Deerfield residents.

The Applicant responds that it will be required to restore all roads to original condition once the Project is constructed. The Applicant further submits that it is not aware of any facts that would preclude it from treating Ms. Bradbury's road any differently from any other road it is going to use and restore.

Ms. Bradbury failed to demonstrate that she will be precluded from asserting and protecting her interests, including the effect of the Project on the road, if she is not allowed to participate as an independent intervenor. Considering, however, that she resides in Deerfield and shares substantially similar interests with other Deerfield residents, the orderly and prompt conduct of the proceedings will not be impaired by allowing Ms. Bradbury to be part of the Deerfield residents group. Ms. Bradbury's motion is denied to the extent she requests to participate as a separate, independent intervenor and granted to the extent she seeks to be combined with the Deerfield residents group.

10. Joint Motion Filed by Individuals From Various Groups of Intervenors

The Subcommittee received a joint motion from the following intervenors: (i) Rodrique and Tammy Beland; (ii) David Schrier; (iii) Roderick C. Moore, Jr.; (iv) Joseph John Dunlap; (v) Shawn Patrick Brady; (vi) Christopher Thompson; and (vii) Eric, Elaine and Joshua Olson. These intervenors request that the Subcommittee allow them to participate in this docket as an independent group. They state that they have mutually retained an attorney to represent them and that the current grouping deprives them of the intended scope of services of their attorney. They further argue that the current grouping deprives them of their due process rights to a meaningful hearing in having the assistance of their own attorney to protect their interests.

The intervenors' ability to protect their interests is not limited because they retained an attorney who represents the interests of other intervenors from other groups. The attorney may and is required by the New Hampshire Rules of Professional Conduct to represent the interests of his/her clients regardless of their designation in different groups of intervenors. Rodrique and Tammy Beland, David Schrier, Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady, Christopher Thompson, and Eric, Elaine and Joshua Olson, failed to demonstrate that they will be deprived of the opportunity to protect their interests as part of their respective groups. Their motion is denied.

11. Appalachian Mountain Club, Conservation Law Foundation, Sierra Club Chapter of New Hampshire, and Ammonoosuc Conservation Trust

The Appalachian Mountain Club, Conservation Law Foundation, and Ammonoosuc Conservation Trust filed a joint motion requesting that they should be allowed to intervene as independent intervenors. The Sierra Club Chapter of New Hampshire (Sierra Club) also filed a motion asking that it participate as an independent intervenor.

The Appalachian Mountain Club, Conservation Law Foundation, Ammonoosuc Conservation Trust, and Sierra Club did not demonstrate that they would be precluded from representing their interests if they participate as a group. The motions are denied.

12. City of Berlin

The City of Berlin states that it should be allowed to participate as an independent intervenor. Berlin asserts that it cannot be grouped with Cate Street Capital, Inc., because Berlin cannot pay for representation of Cate Street's interests and is concerned about future conflicts of interest that may preclude the City from representing its interests.

The City of Berlin did not demonstrate that there is a current conflict between Berlin and Cate Street. The City of Berlin's motion is denied to the extent it requests to allow the City to participate as an independent intervenor. The Subcommittee acknowledges however, that the

City, as a municipality, may have different interests from Cate Street Capital. Therefore, the City of Berlin's motion is granted to the extent the City requests not to be grouped with Cate Street. However, the City of Berlin and the City of Franklin both support the Project and have similar interests. To ensure the orderly conduct of the proceedings, the City of Berlin shall be grouped with the City of Franklin.

C. Motions to Review Orders Denying Intervention

The Subcommittee received motions from the following parties that were originally denied intervention: (i) the New Hampshire State Legislators; (ii) New England Power Generators Association; (iii) Kris Pastoriza; (iv) Peter W. Powell and Thomas Mullen; and (v) James Page.

a. New Hampshire State Legislators

The Legislators ask to intervene so that they can address the "public interest" standard in these proceedings. Specifically, the Legislators state that they represent the interests of their constituents, who are concerned about the impact of the Project. The Legislators argue that they should be allowed to intervene because "nobody else" can represent and address their constituents' interests in this docket. In the alternative, the Legislators state that they should be allowed to intervene as an exercise of discretion.

The Legislators, like any other potential intervenors, are required to demonstrate that they have rights, interests, and privileges that will be impacted by the Project. The Legislators' generalized interests in representing their constituents do not warrant intervention in this docket. The Legislators may file public comments that may be helpful to the Subcommittee. RSA 162-H:10, III allows the filing of public comment until the closing of the record and requires the Subcommittee to weigh and consider all public comment and reports submitted as part of public

comment. The public comment process is a sufficient vehicle for the State Legislators to express their concerns. The New Hampshire Legislators' motion is denied.

b. NEPGA

NEPGA filed a motion requesting to intervene on a limited basis. Specifically, NEPGA asserts that it represents the interests of existing power generating facilities and its members will be directly affected by the Project generally, and specifically by the Power Purchase Agreement associated with the Project. NEPGA states that the Power Purchase Agreement will significantly impact the wholesale market and its members. Therefore, NEPGA asserts that it should be allowed to intervene to ensure that the interests of its members are adequately represented.

The Applicant relies, in part, on the Power Purchase Agreement as support that the construction and operation of the Project will be in the public interest. NEPGA's members' interests directly relate to the Power Purchase Agreement and its effect on the energy market. NEPGA will be allowed to intervene to protect its members' interests. NEPGA's motion is granted and NEPGA is allowed to intervene in this docket on the following limited basis: (i) to address the public interest so far as it relates to economic impacts on the competitive energy market; and (ii) to present information related to the Power Purchase Agreement, so far as it relates to the effect on the electric generation market.

c. Kris Pastoriza, Peter W. Powell, Thomas Mullen, and James Page.

The Subcommittee received motions filed by the following individuals: (i) Kris Pastoriza; (ii) Peter W. Powell; (iii) Thomas Mullen; and (iv) James Page.

Ms. Pastoriza asserts that she should be allowed to participate because her property is located on an alternative route. The Applicant filed maps identifying the alternative route pursuant to the rules. The Applicant does not seek to site the alternative route. The Project that is subject to the review in this docket does not affect Ms. Pastoriza's rights, interests, and privileges. Ms. Pastoriza's motion is denied.

Peter W. Powell and Thomas Mullen filed a motion stating that they have substantial experience as real estate agents and that their knowledge of the real estate market may assist the Subcommittee if they are allowed to participate. Mr. Powell and Mr. Mullen failed to assert any interests, rights and privileges that may be affected by the construction and operation of the Project. The motions filed by Mr. Powell and Mr. Mullen are denied. While their knowledge may qualify them as witnesses, they have not expressed a sufficient interest to be intervenors. Consistent with our administrative rules, Mr. Powell and Mr. Mullen may provide their testimony to the Subcommittee if called as witnesses by any party or intervenor in this docket. They also may file public comments with the Subcommittee advising the Subcommittee of their findings and determinations. The motion to intervene filed by Mr. Powell and Mr. Mullen is denied.

James Page asserts that he should be allowed to intervene because he owns a driveway that will abut a portion of the road under which the Applicant seeks to construct the Project. The Applicant responded by stating that Mr. Page does not own the driveway. It is unclear whether Mr. Page in fact owns the driveway. Regardless of whether Mr. Page owns the driveway, it appears that his property is located in close proximity to the Project and may be affected by

construction and operation of the Project. Mr. Page's motion is granted. Mr. Page's interests, however, are similar to other non-abutting property owners in Easton. To ensure the orderly conduct of the process, Mr. Page's participation in this docket is combined with the Non-Abutting Property Owners: Bethlehem-Plymouth group.

D. Untimely Motions to Intervene

The Subcommittee received additional untimely motions to intervene from the following individuals: (i) Gerald R. Beck; (ii) John and Martha Richards; (iii) Gail S. Beaulieu as Trustee of The Richard A. Dearborn Revocable Trust; (iv) Judith Dearborn; (v) Michael Marino and Lee Ann Moulder; (vi) Nancy and Carl Martland; (vii) Douglass and Martha Evelyn; (viii) Roy and Deborah Stever; (ix) Timothy T. Egan; (x) Susan Schibanoff; (xi) Robert and Joanna Tuveson; and (xii) Normand and Kathleen DeWolfe.⁹

These individuals base their motions on the proximity of their real estate to an alternative route that is no longer part of the Project.

The Applicant argues that these intervenors failed to demonstrate interests, rights and privileges that will be impacted by the Project because the Applicant does not seek certification of the alternate route.

The Project that is currently before the Subcommittee will have no effect on interests, rights, and privileges of individuals who own real estate near the alternative route. The alternative route is not subject to certification in this docket. The petitions are denied.

E. Motions to Clarify and Correct.

a. Substantive Orders

⁹ Ms. Schibanoff is an intervenor based on her ownership of real estate in Franconia. The pending motion requests that she also be allowed to participate, based on her ownership of real estate in Easton.

Robert and Joanna Tuveson were allowed to intervene as members of the Non-Abutting Property Owners: Ashland-Deerfield group. They now request that the Subcommittee grant another motion to intervene based on the impact of an alternative route on their real estate.

Daryl Thompson filed a motion stating that the Order on Petitions to Intervene issued by the Presiding Officer mistakenly identified the following individuals as residents of Whitefield: (i) Jon and Lori Levesque; (ii) Roderick and Donna McAllaster; (iii) Lynne Placey; (iv) Arlene Placey; (v) Brad and Daryl Thompson; (vi) David Schrier; and (vii) Nancy Dodge. Mr. Thompson asserts that these intervenors reside in Stewartstown. A review of the Order confirms that these individuals were incorrectly identified as residents of Whitefield. Mr. Thompson's Motion is granted.

Lee Sullivan and Stephen Buzzell assert that their names were not mentioned in the body of the Order on Petitions to Intervene and requests clarification. Lee Sullivan's and Stephen Buzzell's motion to clarify is granted and Lee Sullivan and Stephen Buzzell are grouped with the Non-Abutting Property Owners: Bethlehem-Plymouth.

b. Procedural Orders

The Subcommittee also received a number of motions requesting clarification regarding how the groupings of intervenors should participate in these proceedings. The Subcommittee finds that it is a matter of internal governance as to the process for group decisions and how to communicate with the Subcommittee, the Applicant, and the other parties. All groupings of intervenors should attempt, in good faith, to reach decisions on representation, discovery, pleadings and other issues raised in this docket. Any individual intervenor, however, if unable to agree with the group, has a right to file a motion stating its disagreement and a motion for alternative relief.

F. Businesses and Organizations with Economic Interest

Each of the following businesses and organizations were granted independent intervenor status: (i) International Brotherhood of Electrical Workers; (ii) Coos County Business and Employers Group; (iii) North Country Chamber of Commerce; (iv) Dixville Capital, LLC and Balsams Resort Holdings, LLC; and (v) Wagner Forest Management. Cate Street Capital, Inc., was initially grouped with the City of Berlin. Above, the Subcommittee grouped the City of Berlin with the City of Franklin, another municipality. In this section, the Subcommittee groups Cate Street, Inc., with the other business entities.

Apart from Wagner Forest Management and North Country Chamber of Commerce, all of these parties express their concerns about the impact of the Project on the economy and employment of the region. They also state their general support of the Project. The Subcommittee finds that, to ensure orderly development of proceedings in this docket, these parties shall be combined in one group of intervenors. In addition, although North Country Chamber of Commerce states that it takes no position regarding the Project, the Subcommittee finds that its participation can and should be combined with other businesses and organizations with economic interests in the Project. Finally, the Subcommittee finds that Wagner Forest Management's interests are different from interests of other businesses and organizations where the Project seeks to cross a substantial portion of the land owned by the Wagner Forest Management. Therefore, the Subcommittee finds that Wagner Forest Management's participation cannot be combined with other businesses and organizations with economic interests in this docket. Wagner Forest Management shall participate as an independent intervenor in this docket.

IV. Orders

It is hereby ordered that the motions filed by the following parties are granted:

- Grafton County Commissioners;
- Erik B. Berglund Jr. and Kathleen A. Berglund, Rebecca Hutchinson, Torin Judd and Brian Judd, Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership, Jeanne M. Menard for Peter F. Menard and Anne K. Burnett, Kevin and Lisa Cini, Bruce A. Adami and Robert J. Cote, and Eric and Sandra Lahr; and
- NEPGA—subject to limitations set forth in the Order.

and;

It is hereby further ordered that the motions filed by the following parties are granted in part and denied in part:

- Bethlehem Board of Selectmen;
- Bethlehem Planning Board;
- Bethlehem Conservation Commission;
- City of Concord;
- City of Berlin;
- Coos County Commissioner Rick Samson;
- Philip H. Bilodeau and Joan C. Bilodeau, subject to limitations set forth in the Order;
- E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents);
- Mark Orzeck and Susan Orzeck;
- Linda Upham-Bornstein;
- Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust;
- Frederic P. Fitts;
- Alexandra M. Dannis and James G. Dannis;
- David Van Houten;
- Andrew D. Dodge;
- Jo Anne Bradbury;
- James Page;
- Bruce and Sondra Brekke;
- Susan E. Percy for Percy Summer Club; and
- Mark Lagasse and Kevin Spencer for Lagaspense Realty, LLC.

and;

It is hereby further ordered that the motions filed by the following parties are denied:

- Easton Conservation Commission;
- Ashland Conservation Commission;
- Ashland Water & Sewer Department;
- Towns of Bristol, Easton, Franconia, Northumberland, Sugar Hill, Whitefield, Bridgewater, Littleton, New Hampton, and Woodstock;
- Jon and Lori Levesque;
- Walter Palmer, as a speaker for Abutting Property Owners: Bethlehem-Plymouth group of intervenors;
- Bruce Ahern;
- Carl and Barbara Lakes;
- McKenna's Purchase Unit Owners Association;
- Rodrique and Tammy Beland, David Schrier, Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady, Christopher Thompson, and Eric, Elaine and Joshua Olson;
- Appalachian Mountain Club, Conservation Law Foundation, and Ammonoosuc Conservation Trust;
- Sierra Club Chapter of New Hampshire;
- New Hampshire State Legislators;
- Kris Pastoriza;
- Peter W. Powell; and
- Thomas Mullen.

and:

It is hereby further ordered that the untimely petitions to intervene filed by the following parties are denied:

- Gerald R. Beck;
- John and Martha Richards;
- Gail S. Beaulieu as Trustee of The Richard A. Dearborn Revocable Trust;
- Judith Dearborn;
- Michael Marino and Lee Ann Moulder;
- Nancy and Carl Martland;
- Douglass and Martha Evelyn;
- Roy and Deborah Stever;
- Timothy T. Egan;
- Susan Schibanoff;
- Robert and Joanna Tuveson; and
- Normand and Kathleen DeWolfe.

and:

It is hereby further ordered that the motions filed by the following parties are granted:

- Daryl Thompson; and
- Lee Sullivan and Stephen Buzzell.

and:

It is hereby further ordered that the following groups of intervenors are designated in this docket:

1. Towns, Town Governing Bodies, Municipal Sub-Units, Conservation Commissions, Grafton County Commissioners, Rick Samson, Local Government Entities

a. Towns, Bodies, Municipal Sub-Units, and Conservation Commissions

- **Municipal Group 1 North** – Pittsburg, Clarksville, Stewartstown, Colebrook, and Coos County Commissioner Rick Samson, as a group;
- **Municipal Group 1 South** – Northumberland, Whitefield (Board of Selectmen and Planning Board), Dalton (Board of Selectmen and Conservation Commission), Bethlehem (Board of Selectmen, Planning Board and Conservation Commission), and Littleton, as a group.
- **Municipal Group 2**–Sugar Hill, Franconia (Board of Selectmen, Planning Board, and Conservation Commission), Easton (Board of Selectmen, Planning Board, and Conservation Commission), Woodstock, and Plymouth, as a group;
- **Municipal Group 3 North**–Holderness (Board of Selectmen and Conservation Commission), Ashland (Board of Selectmen, Conservation Commission, and Water & Sewer Department), Bridgewater, New Hampton, and Bristol, as a group;
- **Municipal Group 3 South**–Canterbury, Concord, Pembroke (Board of Selectmen and Conservation Commission), and Deerfield (Board of Selectmen, Planning Board, and Conservation Commission), as a group.
- City of Franklin and City of Berlin, as a group.

b. Grafton County Commissioners, as single party.

2. Individual Parties

a. Abutting Property Owners: Clarksville–Bethlehem

i. *Clarksville-Stewartstown Abutting Property Intervenors (underground portion of the Project), as a group*

- Charles and Donna Jordan;
- Sally A. Zankowski;
- Jon and Lori Levesque;
- Roderick and Donna McAllaster;
- Lynne Placey;
- Arlene Placey;
- Brad and Daryl Thompson;
- David Schrier; and
- Nancy L. Dodge.

ii. *Dummer, Stark, and Northumberland Abutting Property Intervenors (overhead portion of the Project), as a group*

- R. Eric Jones and Margaret J. Jones;
- Elaine V. Olson;
- Eric M. Olson;
- Joshua Olson;
- Elaine V. Olson;
- Rodrigue J. and Tammy L. Beland;
- Susan E. Percy for Percy Summer Club;
- Mark Lagasse and Kevin Spencer for Lagaspence Realty, LLC; and
- Robert Heath.

iii. *Whitefield, Dalton, and Bethlehem Abutting Property Intervenors (overhead portion of the Project), as a group*

- Elmer C. Lupton and Claire C. Lupton;
- Mary Boone Wellington;
- Bruce and Sondra Brekke;
- James and Judy Ramsdell;
- Charles and Cynthia Hatfield;
- Donald and Betty Gooden;
- Tim and Brigitte White; and
- David Van Houten.

b. Non-Abutting Property Owners: Clarksville–Bethlehem (overhead portion of the Project):

i. *Non-Abutting Property Owners: Clarksville and Stewartstown, as a group*

- Robert Martin;
- Roderick C. Moore, Jr., Joseph John Dunlap, Shawn Patrick Brady and Christopher Thompson; and

- E. Martin Kaufman, Bradley J. Thompson, and John Petrofsky on behalf of 44 residents of Stewartstown and East Colebrook (Dixville Notch-Harvey Swell Location residents).
- ii. *Non-Abutting Property Owners: Stark, Lancaster, Whitefield, Dalton, and Bethlehem, as a group*
- Mark W. Orzeck and Susan Orzeck;
 - John W. Davidge for Prospect Farm-Lancaster, LLC;
 - Linda Upham-Bornstein;
 - Rebecca Weeks Sherrill More, PhD for the Weeks Lancaster Trust;
 - Richard M. McGinnis;
 - Frederic P. Fitts;
 - Gerald and Vivian Roy;
 - Edward A. Piatek;
 - Frank and Kate Lombardi;
 - Marsha J. Lombardi;
 - Wendy Doran;
 - Alexandra M. Dannis and James G. Dannis; and
 - Andrew D. Dodge.
- c. Abutting Property Owners: Bethlehem (underground portion of the Project) – Plymouth, as a group
- Nigel Manley and Judy Ratzel;
 - Russel and Lydia Cumbee;
 - Walter Palmer and Kathryn Ting;
 - G. Peter and Mary S. Grote;
 - Paul and Dana O'Hara;
 - Virginia Jeffreys;
 - Carol Dwyer;
 - Gregory and Lucille Wolf;
 - Susan Schibanoff;
 - Ken and Linda Ford;
 - Campbell McLaren, M.D.;
 - Eric and Barbara Meyer;
 - Robert W. Thibault;
 - Dennis Ford;
 - Carl Lakes and Barbara Lakes;
 - Bruce D. Ahern; and
 - Frank Pinter.
- d. Non-Abutting Property Owners: Bethlehem (underground portion of the Project) – Plymouth, as a group
- Lee Sullivan and Stephen Buzzell;
 - Timothy and Rebecca Burbank, Edward Cenerizio and Deborah Corey, and Matthew Steele, individually and as owners of 41 Dyke Road, LLC; and
 - James Page.

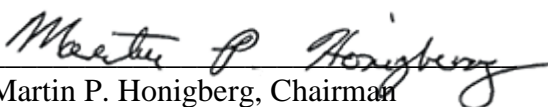
- e. Abutting Property Owners: Ashland–Deerfield
 - i. *Deerfield, as a group:*
 - Erick B. Berglund Jr. and Kathleen A. Berglund;
 - Rebecca Hutchinson;
 - Torin Judd and Brian Judd;
 - Jo Anne Bradbury;
 - Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership;
 - Jeanne M. Menard for Peter F. Menard and Anne K. Burnett;
 - Kevin and Lisa Cini;
 - Bruce A. Adami and Robert J. Cote; and
 - Eric and Sandra Lahr.
 - ii. *Ashland, Northfield, Canterbury, Allenstown, and Concord, as a group:*
 - Carol Currier;
 - Mary A Lee;
 - Craig and Corinne Pullen;
 - McKenna’s Purchase Unit Owners Association;
 - Taras and Marta Kucman;
 - Kelly Normandeau; and
 - Laura M. Bonk.
 - iii. *Philip H. Bilodeau and Joan C. Bilodeau–limited intervention.*
- f. Non-Abutting Property Owners: Ashland–Deerfield, as a group
 - Joanna and Robert Tuveson;
 - Nina and Elisha Gray;
 - Rodney Felgate and Laura Felgate;
 - The Webster Family Group;
 - Lawrence Phillips and Maxine Phillips;
 - Lisa Wolford and Pamela Hanglin;
 - F. Maureen Quinn;
 - Madelyn and Thomas Foulkes; and
 - Jeanne M. Menard as a managing member of Pawtuckaway View, LLC.

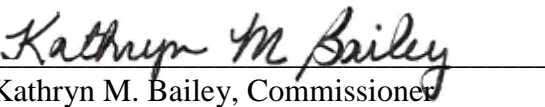
3. Non-Governmental Organizations

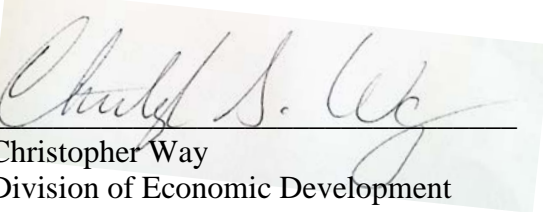
- a. Society for the Protection of New Hampshire Forests – as single party;
- b. Appalachian Mountain Club, Conservation Law Foundation, Sierra Club Chapter of New Hampshire, and Ammonoosuc Conservation Trust, as a group; and
- c. Sugar Hill Historical Museum, New Hampshire Preservation Alliance and National Trust for Historic Preservation, North Country Scenic Byways Council, as a group.

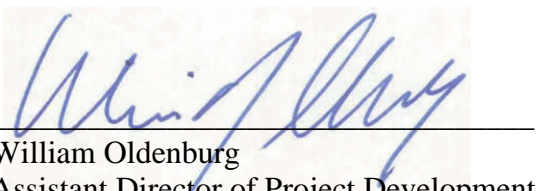
4. **Businesses and Organizations with Economic Interests** - Cate Street Capital, Inc.; International Brotherhood of Electrical Workers; Coos County Business and Employers Group; North Country Chamber of Commerce; and Dixville Capital, LLC and Balsams Resort Holdings, LLC, as a group;
5. **Wagner Forest Management**, as single party.
6. **Pemigewasset River Local Advisory Committee**, as single party.
7. **NEPGA-limited intervention.**

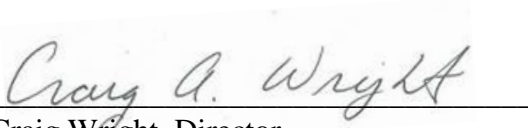
It is further ordered that each group of intervenors shall designate a spokesperson that will be responsible for communicating with the Subcommittee, the Applicant, and other parties in this docket with respect to conducting discovery and filing pleadings. SO ORDERED this twentieth day of May, 2016 by the Site Evaluation Subcommittee:

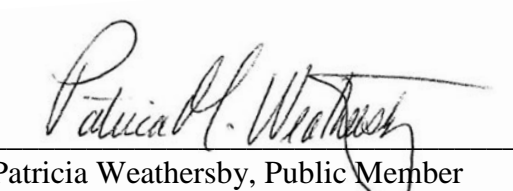

Martin P. Honigberg, Chairman
N.H. Public Utilities Commission
Presiding Officer


Kathryn M. Bailey, Commissioner
Public Utilities Commission


Christopher Way
Division of Economic Development
Department of Resources and Economic
Development


William Oldenburg
Assistant Director of Project Development
Department of Transportation


Craig Wright, Director
Air Resources Division
Dept. of Environmental Services


Patricia Weathersby, Public Member

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

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 the Construction of a New High Voltage Transmission Line in New Hampshire

Docket No. 2015-06

**CITY OF CONCORD’S MOTION FOR REHEARING ON
ORDER ON INTERVENTION**

The City of Concord, by and through its attorneys, the Office of the City Solicitor, hereby submits the following motion for rehearing pursuant to RSA 541:3 and N.H. Admin. Rule, Site 202.29, stating as follows:

1. On November 17, 2015, Concord moved to intervene.

2. On March 18, 2016, the presiding officer of the Site Evaluation Committee issued an order that consolidated Concord’s intervention with other municipalities and materially limited Concord’s intervention in this matter. Order on Petitions to Intervene (March 18, 2016) at 8. The order consolidated Concord in Municipal Group 3 (Southern Section) which consisted of Holderness, Ashland, Bridgewater, New Hampton, Bristol, Canterbury, Pembroke and Deerfield.¹ *Id.*

2. Concord subsequently requested the Site Evaluation Committee (“SEC”) to review and modify the order of the presiding officer. On April 12, 2016, the SEC held a hearing on the request for review.

3. On May 20, 2016, the SEC issued an order denying Concord’s request to be provided separate and independent intervenor status. The SEC, however, reconfigured Municipal Group 3. Concord was placed in Municipal Group 3 (South), which is comprised of

¹ A number of these municipalities also had boards and commissions that intervened.

Canterbury, Concord, Pembroke (Board of Selectmen and Conservation Commission) and Deerfield (Board of Selectmen, Planning Board and Conservation Commission). Concord now files this motion for rehearing. N.H. Admin. Rule, Site 202.29.

4. Concord has distinct interests from the other municipalities and their boards. The manner in which the City of Concord has been grouped with other municipalities violates the requirements under RSA 541-A:32, IV and N.H. Admin. Rule, Site 202.11(e) which provide that to the extent that a presiding officer imposes conditions on intervention, such conditions shall not be “so extensive as to prevent the intervenor from protecting the interest which formed the basis of the intervention.”

5. As discussed in detail in Concord’s motion for review of order on intervention, Concord has a significant interest in this proceeding because the proposed project impacts the orderly development of the region, as well as because Concord owns several parcels of property which will be impacted by the proposed route. The legislature intended for municipalities to have an opportunity to provide their views relative to the site and facility. RSA 162-H:16 states that the SEC may only issue a certificate to the extent that it finds that “[t]he site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.” It is clear from this requirement that municipalities have an important role in the SEC proceedings. In this matter, Concord’s interests are heightened because it has an ownership interest in property that will be impacted by the proposed development.

6. The consolidation of the Concord into Municipal Group 3 (South) contains unworkable and rigorous requirements for conducting discovery, filing of pleadings and for cross-examination of witnesses through one spokesperson. The SEC’s order does not allow

Concord to conduct cross-examination to address issues of specific concern to Concord that are not addressed by the group's spokesperson or by another party's cross-examination. The SEC's order also does not allow Concord to file supplemental pleadings on relevant issues of specific concern to Concord that are not adequately addressed in the group's consolidated pleading. The SEC's order also does not appear to allow Concord to ask questions of witnesses during the technical sessions to the extent issues of specific concern to Concord that are not addressed by the group's spokesperson or another party's questions. This unprecedented approach is not justified and not consistent with the rights afforded to municipalities under previous SEC proceedings. Indeed, the SEC has long allowed municipalities who are impacted by a proposed project the right to independently respond and present evidence on issues in a contested case proceeding. Municipalities have historically been allowed to participate in the adjudicatory process as full parties, and have not been consolidated.²

7. The SEC's requirement that Concord participate in this proceeding only through a designated spokesperson and the consolidation of filings with parties in its grouping will prevent Concord from a fair and adequate opportunity to respond to issues in a way that fully protects the City of Concord's procedural due process interests. *See* U.S. CONST. amend. XIV; N.H. CONST., pt. I, art. 15. While on the surface, the issues raised by municipalities may seem similar, each municipality is primarily concerned with the project impacts within their own borders. Concord can only be effectively heard through its own attorneys and through exclusive management of how it presents testimony and legal arguments before the SEC. Moreover, the spokesperson designation could also impair Concord's attorneys from carrying out strategic activities for Concord because of a consolidation obligation imposed by the SEC, which may

² A number of these proceedings were referenced in Concord's motion for review of order on intervention.

require Concord to accommodate the interests of other parties through the cross-examination of witnesses and the filing of briefs.

8. The Board's consolidation and spokesperson requirement that groups Concord with the Towns of Canterbury, Deerfield and Pembroke is also inconsistent with the professional responsibilities of the attorneys for Concord. The municipalities involved in Municipal Group 3 have potentially unique issues, and some of the municipalities may choose to make decisions for strategic or political reasons. Under the Rules of Professional Conduct 1.2(a), a lawyer is required to abide by a client's decisions concerning the objectives of representation. The requirement that the parties choose a "spokesperson" for filing pleadings and presenting cross-examination raises issues for those attorneys representing municipalities who may disagree with the proposed approach of other municipalities and is simply unworkable.

9. For all of the reasons set forth herein, as well as all of the arguments raised in Concord's motion for review of order on intervention, Concord moves for a rehearing on the intervention order. Rather than formal consolidation and mandatory groupings, the SEC should encourage coordination between Concord and the other members of Municipal Group 3 (South) to avoid duplication. It should be noted that Concord has already been coordinating its activities whenever possible with other intervenors in this matter, and it will continue to do so. Concord will continue to work with other intervenors when feasible to minimize duplicative discovery requests, cooperate on the presentation of evidence, cooperate in cross-examination, and cooperate in briefing. Moreover, the SEC continues to have the right to impose limitations during hearings and other proceedings to avoid the duplication of evidence and testimony.

10. In the alternative, the SEC should amend its order to specifically allow Concord to participate in technical sessions and conduct additional cross-examination to address issues of

specific concern that are not addressed by the group's spokesperson or by another party's cross-examination. The SEC should also amend its order to allow Concord to file supplemental pleadings on relevant issues of specific concern that are not adequately addressed in the group's consolidated pleading.

11. In accordance with N.H. Admin. Rule, Site 202.14, Concord has attempted to obtain concurrence from the parties. Concord has been notified that the following parties concur with the relief sought: (1) Deerfield Abutting Property Owner Intervenor Group; (2) Non-Abutting Property Owners: Ashland-Deerfield; (3) the Town of Northumberland; (4) the Town of Whitefield; (5) the Town of Bethlehem; (6) the Town of Sugar Hill; (7) the Town of Franconia; (8) the Town of Easton; (9) the Town of Plymouth; (10) the Town of Bristol; (11) the Town of Pembroke; (12) Town of Canterbury; (13) Grafton County Commissioners; (14) Society for the Protection of New Hampshire Forests; (15) Bruce Ahern; (16) McKenna's Purchase; and (17) Kelly Normandeau. The following parties do not take any position: (1) Town of Littleton; (2) Town of Woodstock; (3) Town of Bridgewater; (4) Town of New Hampton; (5) Town of Deerfield; and (6) Ashland Water & Sewer Department. The International Brotherhood of Electrical Workers objects to the relief sought.³ As of the time of filing of this motion, Concord has not received a response from the other parties.

WHEREFORE, the City of Concord respectfully requests that the Site Evaluation Committee:

A. Allow Concord to participate in the proceedings as an independent party for purposes of discovery, technical sessions, filing pleadings and cross examination;

B. In the alternative, amend the intervention order to allow the City of Concord: (1) to participate in technical sessions to address issues of specific concern that are not addressed by

³ It should be noted that the International Brotherhood of Electrical Workers has been granted independent intervenor status, despite the fact that its sole basis for intervention is as an organization with an economic interest in the project.

the group's spokesperson or by another party's questions; (2) to conduct additional cross-examination during hearings to address issues of specific concern that are not addressed by the group's spokesperson or by another party's cross-examination; and (3) to file supplemental pleadings on relevant issues of specific concern that are not adequately addressed in the group's consolidated pleading.

C. Grant such other and further relief as may be just.

Respectfully submitted,

CITY OF CONCORD

June 17, 2016

By:



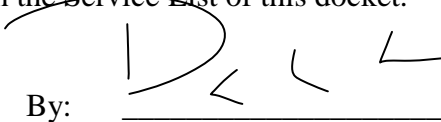
Danielle L. Pacik, Deputy City Solicitor
41 Green Street
Concord, New Hampshire 03301
Telephone: (603) 225-8505
Facsimile: (603) 225-8558
dpacik@concordnh.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June 2016, a copy of the foregoing was sent by electronic mail to persons named on the ~~Service List~~ of this docket.

June 17, 2016

By:



Danielle L. Pacik, Deputy City Solicitor

**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 MOTIONS FOR REHEARING
SUBCOMMITTEE ORDER ON REVIEW OF INTERVENTION**

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 Motions for Rehearing filed by the City of Concord (“City”) and the McKenna’s Purchase Unit Owners Association (“McKenna’s Purchase”).

1. On May 20, 2016, the Site Evaluation Committee (“SEC” or, in this case, “Subcommittee”) issued its Order on Review of Petitions to Intervene (“Review Order”). The Review Order addressed requests made by various parties who were aggrieved by the Presiding Officer’s March 18, 2016 Order on Petitions to Intervene.

2. On June 17, 2016, the City filed its Motion for Rehearing reprising arguments from its March 25, 2016 Motion for Review of Order on Intervention. Among other things, the City recounts its uniqueness and reiterates its procedural arguments about conducting discovery, filing pleadings, and conducting cross examination. With respect to the latter, the City contends that the Subcommittee has imposed “unworkable and rigorous requirements” by consolidating the City with other municipalities, and it posits scenarios in which, for instance, it would not be able to ask questions during technical sessions or during the adjudicative hearings.

3. In its Review Order, the Subcommittee, at pp. 11-12, addressed the City's request to be granted independent intervenor status. The Subcommittee concluded that the City "failed to demonstrate that its interests are so unique that they cannot be addressed" as part of a municipal group. The Subcommittee, nevertheless, reconfigured Municipal Group 3, establishing the smaller North and South subgroups, "to ensure that all municipalities will have an opportunity to address the issues raised in this docket." Furthermore, at p. 28, the Subcommittee addressed questions about how groupings of intervenors would participate in this proceeding and it found "that it is a matter of internal governance as to the process for group decisions and how to communicate with the Subcommittee, the Applicant, and the other parties." As the Subcommittee further concluded, if and when an individual intervenor is unable to agree with the group, it may file an appropriate motion.

4. On June 17, 2016, McKenna's Purchase filed its motion for rehearing. It repeats previous statements that the number of condominium units in the association is somehow a determining factor in qualifying as a single party and it alleges for the first time a unique role in protecting the habitat of the Karner Blue Butterfly, which the City had previously identified in its March 25, 2016 pleading as an indicator of the City's uniqueness.

5. In its Review Order, at pp. 19-20, the Subcommittee addressed McKenna's Purchase's request to participate as an independent intervenor. The Subcommittee concluded that its "interests are substantially similar to the interests asserted" by other abutting property owners. The Subcommittee further found that there was nothing to indicate that McKenna's Purchase's ability to represent its interests will be impaired by the grouping with other intervenors.

6. The purpose of rehearing “is to direct attention to matters that have been overlooked or mistakenly conceived in the original decision ...” *Damais v. State*, 118 N.H. 309, 311 (1978) (internal quotations omitted). A rehearing may be granted when the Committee finds “good reason” or “good cause” has been demonstrated. *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 successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome.” *Public Service Co. of N.H.*, Order No. 25,676 at 3 (June 12, 2014); *see also Freedom Energy Logistics*, Order No. 25,810 at 4 (Sept. 8, 2015).

7. The City fails to demonstrate any good reason for the Subcommittee to grant its motion. Rather, it repackages the arguments it made previously. Similarly, McKenna’s Purchase returns to arguments it made previously. Neither the City’s nor McKenna’s Purchase’s motion for rehearing adds anything to their respective grievances. Furthermore, in neither case has the Subcommittee mistakenly conceived or overlooked anything. Therefore, rehearings of these motions should be denied.

WHEREFORE, the Applicants respectfully request that the Subcommittee:

- A. Deny the City’s and McKenna’s motions 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 Their Attorneys,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: June 22, 2016

By: 

Barry Needleman, Bar No. 9446
Thomas Getz, Bar No. 923
Adam Dumville, Bar No. 20715
11 South Main Street, Suite 500
Concord, NH 03301
(603) 226-0400
barry.needleman@mclane.com
thomas.getz@mclane.com
adam.dumville@mclane.com

Certificate of Service

I hereby certify that on the 22nd of June, 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.


Thomas B. Getz

**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**

July 21, 2016

**ORDER ON MOTIONS FOR REHEARING
ON ORDER ON REVIEW OF INTERVENTION**

This Order memorializes the denial of rehearing requests regarding intervention filed by the City of Concord, the McKenna's Purchase Unit Owners Association, Thomas Mullen, and Peter Powell.

I. Background

On October 19, 2015, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively Applicant) submitted an Application to the New Hampshire Site Evaluation Committee (Committee) for a Certificate of Site and Facility (Application) to construct a 192-mile transmission line. The transmission line is proposed to have a capacity rating of up to 1,090 MW, and to run through New Hampshire from the Canadian border in Pittsburg to Deerfield.

On November 2, 2015, pursuant to RSA 162-H:4-a, the Chair of the Committee appointed a Subcommittee (Subcommittee).

On March 18, 2016, the presiding officer issued an Order on the petitions to intervene that were received in this docket. The statute provides that any party aggrieved by a decision on a petition to intervene may within 10 calendar days request that the committee review presiding officer's decision. *See* RSA 162-H:4, V.

A. City of Concord's Request for Rehearing

On November 17, 2015, the City of Concord (Concord) filed a petition to intervene in this docket. Concord's petition was granted in the Order issued on March 18, 2016. Its participation in this docket was consolidated with the Town of Holderness (Board of Selectmen and Conservation Commission), the Town of Ashland (Board of Selectmen, Conservation Commission and Water & Sewer Department), the Town of Bridgewater, the Town of New Hampton, the Town of Bristol, the Town of Canterbury, the Town of Pembroke (Board of Selectmen and Conservation Commission), and the Town of Deerfield (Board of Selectmen, Planning Board and Conservation Commission).

On March 25, 2016, Concord filed a timely motion to review and reconsider the order consolidating its participation with other municipalities.

On April 12, 2016, the Subcommittee conducted a hearing and denied Concord's request to participate in this docket as an individual intervenor. On May 20, 2016, the Subcommittee issued an Order, memorializing its decision. The Order reconfigured groupings of intervenors and consolidated Concord's participation with the Town of Canterbury, the Town of Pembroke (Board of Selectmen and Conservation Commission), and the Town of Deerfield (Board of Selectmen, Planning Board, and Conservation Commission).

On June 17, 2016, Concord filed a Motion for Rehearing on the Order on Intervention, requesting that the Subcommittee allow it to proceed as an independent intervenor in this docket.

The Applicant objected to Concord's request on June 22, 2016.

On June 23, 2016, the Subcommittee held a hearing on pending motions and denied Concord's request. This Order memorializes the Subcommittee's decision.

B. McKenna's Purchase Unit Owners Association's Motion for Rehearing

On January 7, 2016, McKenna's Purchase Unit Owners Association (MPUOA) filed a petition to intervene in this docket. MPUOA's petition to intervene was granted in the Order issued on March 18, 2016. MPUOA's participation in this docket was consolidated with the following abutting property owners residing in the City of Concord and the Towns of Ashland, Northfield, Canterbury, Allenstown, and Deerfield: Carol Currier, Mary A. Lee, Craig and Corinne Pullen, Taras and Marta Kucman, Kelly Normandeau, Laura M. Bonk, Philip H. Bilodeau and Joan C. Bilodeau, Erick B. Berglund Jr. and Kathleen A. Berglund, Rebecca Hutchinson, Torin Judd and Brian Judd, Jo Anne Bradbury, Jeanne M. Menard as a General Partner of the Menard Forest Family Limited Partnership, Jeanne M. Menard for Peter F. Menard and Anne K. Burnett, Kevin and Lisa Cini, Bruce A. Adami and Robert J. Cote, and Eric and Sandra Lahr.

On March 25, 2015, MPUOA requested that the Subcommittee review the order consolidating its participation with other intervenors and allow it to participate as an individual party in this docket.

On April 12, 2016, the Subcommittee conducted a hearing and denied MPUOA's request to participate in this docket as an individual intervenor. On May 20, 2016, the Subcommittee issued an Order memorializing its decision. The Order reconfigured the groupings of intervenors and consolidated MPUOA's participation with the following residents of the City of Concord and the Towns of Ashland, Northfield, Canterbury and Allenstown: Carol Currier, Mary A. Lee, Craig and Corinne Pullen, Taras and Marta Kucman, Kelly Normandeau and Laura M. Bonk.

On June 17, 2016, MPUOA filed a motion requesting that the Subcommittee reconsider its decision to consolidate MPUOA's participation with other intervenors in this docket.

The Applicant objected to MPUOA's request on June 22, 2017.

On June 23, 2016, the Subcommittee held a hearing on pending motions and denied MPUOA's motion. This Order memorializes the Subcommittee's decision.

C. Thomas Mullen and Peter Powell Request for Rehearing

On February 2 and 5, 2016, Thomas Mullen and Peter Powell filed petitions to intervene in this docket. On March 18, 2016, the Presiding Officer issued an Order on Petitions to Intervene, denying Mr. Mullen's and Mr. Powell's requests. On March 21, 2016, Mr. Mullen and Mr. Powell jointly filed a timely motion requesting that the Subcommittee review the Presiding Officer's decision. During a hearing on April 12, 2016, the Subcommittee addressed their request and denied the petition to intervene. The order memorializing the Subcommittee's decision was issued on May 20, 2016.

On April 29, 2016, Mr. Mullen, Mr. Powell and "Realtors Opposed to Northern Pass" (Realtors) "appealed" the Subcommittee's decision denying their petition to intervene.¹

The Applicant objected to Mr. Mullen's request on May 27, 2016.

On June 23, 2016, the Subcommittee held a hearing on pending motions and denied the requests. This Order memorializes the Subcommittee's decision.

II. Standard

A motion for rehearing shall:

- (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

¹ It is noted that although Mr. Mullen states that he wishes to "appeal" the Subcommittee's decision, he is required to file a motion for rehearing with the Subcommittee prior to filing his appeal with the New Hampshire Supreme Court. *See* RSA 541:3; 541:6. Therefore, Mr. Mullen's motion is treated as a request for rehearing in this docket.

- (4) Include any argument or memorandum of law the moving party wishes to file.

NH CODE ADMIN. R. ANN. Site 202.29.

III. Analysis and Findings

A. City of Concord's Request for Rehearing

Concord argues that its participation in this docket should not be consolidated with other municipalities. Concord asserts that its interests are distinct and individualized and argues that its consolidation with other intervenors: (i) deprives it of due process rights; (ii) prevents it from protecting the interests which formed the basis of the intervention; and (ii) is contrary to the Rules of Professional Conduct.

Concord argues that by consolidating its participation with other intervenors and requesting that each group of intervenors designate a spokesperson, the Subcommittee effectively deprived Concord of the opportunity: (i) to address its concerns and interests through discovery; (ii) to conduct cross-examination and address issues that are not addressed by the group's spokesperson; (iii) to file supplemental pleadings; and (iv) to ask questions during technical sessions. Concord asserts that it can only be effectively represented through its own attorneys and through exclusive management of how it presents testimony and legal arguments before the Subcommittee. Concord further argues that its attorneys, under the Rules of Professional Conduct, are obligated to abide by Concord's decisions concerning the objectives of representation and that consolidating Concord with other intervenors may cause conflicts in the event that they disagree with the proposed approach of other municipalities.

Concord requests that the Subcommittee allow it to participate as an independent intervenor in this docket. In the alternative, Concord requests that the Subcommittee amend its intervention order to allow Concord: (i) to participate in technical sessions to address issues of

specific concerns that are not addressed by the group's spokesperson or by another party's questions; (ii) to conduct additional cross-examination during hearings to address issues of specific concern that are not addressed by the group's spokesperson or by another party's cross-examination; and (iii) to file supplemental pleadings on relevant issues of specific concern that are not adequately addressed in the group's consolidated pleadings.

In the Order dated May 20, 2016, the Subcommittee noted that all groupings of intervenors should attempt, in good faith, to reach decisions on representation, discovery, pleadings and other issues in this docket, and that any individual intervenor, if it is unable to agree with the group, has the right to file a motion stating its disagreement and a motion for alternative relief. (Order at Page 28). The Applicant argues that Concord's request should be denied because Concord's arguments have already been addressed by the Subcommittee in its prior Order, and Concord failed to state any new facts that would indicate that rehearing of the Subcommittee's prior decision is warranted. The Subcommittee determined that Concord failed to provide any error of fact, reasoning, or law that would warrant rehearing of the Order. Concord's Motion for Rehearing on Order on Intervention is denied.

B. MPUOA's Request for Rehearing

MPUOA asserts that its interests in this docket are unique and its ability to address these interests will be limited if it is required to coordinate its participation with other intervenors from the group. Specifically, MPUOA asserts that it should be allowed to intervene as a full party because it represents one hundred forty-eight members and because the Project will cross MPUOA's property that is the only habitat in New Hampshire for the Karner Blue butterfly. Finally, MPUOA argues that it is in the process of hiring counsel and that counsel's ability to represent its interests will be hampered by the presence of six other property owners.

The Applicant argues that MPUOA's request for rehearing should be denied because MPUOA reiterated previously addressed arguments and failed to set forth "good cause" that would warrant the rehearing.

The Subcommittee determined that MPUOA failed to provide any error of fact, reasoning, or law that would warrant rehearing of the Order. MPUOA's motion for rehearing is denied.

C. Thomas Mullen and Peter Powell Motion for Rehearing

Thomas Mullen and Peter Powell assert that they wish to "appeal" the Subcommittee's denial of its intervention status. They argue that the Project's impact on real estate values is a significant issue in this docket and that they should be allowed to intervene in order to address this issue. They further argue that their intervention would benefit other intervenors because of their knowledge of the industry and the real estate market in the North Country.

The Applicant objects to the request for rehearing. The Applicant argues that Mr. Mullen and Mr. Powell restate and reiterate arguments that have already been addressed by the Subcommittee during the public hearing. The Applicant concludes that the requests should be denied because they failed to demonstrate the needed specificity required to establish an interest in this proceeding.

Mr. Mullen and Mr. Powell failed to state any fact that would demonstrate that the Subcommittee committed an error of fact, reasoning, or law when it denied the motion to intervene. Mr. Mullen's and Mr. Powell's requests for rehearing of the Subcommittee's decision denying intervention are denied. Any party to these proceedings is free to retain Mr. Mullen and Mr. Powell as witnesses if they believe they have relevant information to provide to the Subcommittee. Mr. Mullen and Mr. Powell can also submit public comments in this docket throughout the pendency of the proceeding. The request for rehearing made on behalf of a group titled, "Realtors Opposed to Northern Pass" is also denied. "Realtors Opposed to Northern Pass"

did not request intervenor status in this docket and, consequently, no order that can be reheard or reconsidered by the Subcommittee. The “Realtors’ Opposed to Northern Pass” request for rehearing is denied.

IV. Orders

It is hereby ordered that City of Concord’s request for rehearing is denied;

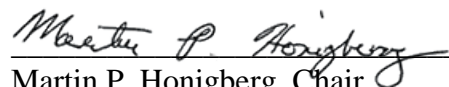
It is hereby further ordered that McKenna’s Purchase Unit Owners Association’s request for rehearing is denied;

It is hereby further ordered that Thomas Mullen’s request for rehearing is denied;

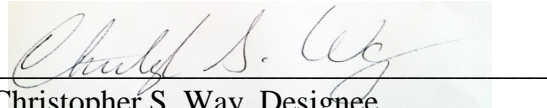
It is hereby further ordered that Peter Powell’s request for rehearing is denied; and

It is hereby further ordered that “Realtors’ Opposed to Northern Pass” request for rehearing is denied.

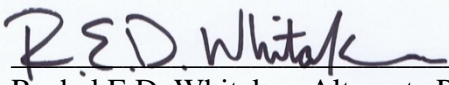
SO ORDERED this twenty-first day of July, 2016 by the Site Evaluation Subcommittee:



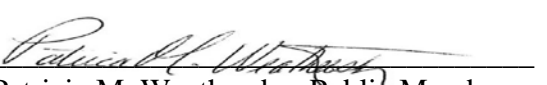
Martin P. Honigberg, Chair
Site Evaluation Committee
Presiding Officer



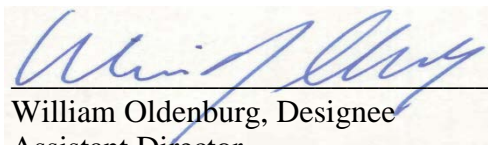
Christopher S. Way, Designee
Administrator
Division of Economic Development
Dept. of Res. and Econ. Development



Rachel E.D. Whitaker, Alternate Public
Member



Patricia M. Weathersby, Public Member



William Oldenburg, Designee
Assistant Director
Dept. of Transportation

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

Subcommittee Members

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Commissioner, Public Utilities Commission Kathryn M. Bailey 21 S. Fruit St., Suite 10 Concord, NH 03301 kate.bailey@puc.nh.gov	Commissioner, Dept of Resources & Economic Development Christopher Way, Deputy Director, Designee 172 Pembroke Rd., Concord, NH 03302-1856 christopher.way@dred.state.nh.us
Commissioner, Department of Transportation William Oldenburg, Designee Assistant Director of Project Development 7 Hazen Dr. Concord, NH 03302-0483 woldenburg@dot.state.nh.us	Public Member Patricia Weathersby Weathersby Law PLLC P.O. Box 685 Rye, NH 03870 weathersbylawpllc@gmail.com
Alternate Public Member Rachel Whitaker 22 Fogg Road Stark, NH 03583 rwhitaker@ccsnh.edu	

Committee Staff

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**Northern Pass Transmission LLC and Public Service Company of New Hampshire dba
Eversource Energy
SEC 2015-06
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Docket No. 2015-06
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