



# City of Concord

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Danielle Pacik  
Deputy City Solicitor

August 12, 2016

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

RE: Appeal of the City of Concord  
Docket No. 2016-0395

Dear Clerk Fox:

Enclosed please find an original and seven copies of the City of Concord's Objection to Motion for Summary Affirmance, together with accompanying Memorandum of Law, for filing in the above matter.

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**

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

Case No. 2016-0395

**CITY OF CONCORD'S OBJECTION TO MOTION FOR SUMMARY AFFIRMANCE**

The City of Concord, by and through its attorneys, the Office of the City Solicitor, hereby submits the following objection to the motion for summary affirmance, stating as follows:


1. Pursuant to the Rule 25 of the Supreme Court of the State of New Hampshire, the City of Concord objects to the motion for summary disposition.
2. For all of the reasons set forth in the accompanying memorandum of law, as well as the supporting exhibits, the City of Concord respectfully requests the Court to deny the request for summary affirmance.

Respectfully submitted,

CITY OF CONCORD

August 12, 2016


By: \_\_\_\_\_

  
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**CERTIFICATE OF SERVICE**

In accordance with Rule 26, I certify that I have provided notice of the foregoing 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.

August 12, 2016

By:   
\_\_\_\_\_  
Danielle L. Pacik, Deputy City Solicitor

**THE STATE OF NEW HAMPSHIRE  
SUPREME COURT**

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

Case No. 2016-0395

**CITY OF CONCORD’S MEMORANDUM OF LAW IN SUPPORT OF OBJECTION TO  
MOTION FOR SUMMARY AFFIRMANCE**

The City of Concord, by and through its attorneys, the Office of the City Solicitor, hereby submits the following memorandum of law in support of its objection to the motion for summary affirmance, stating as follows:

**I. BACKGROUND**

This appeal 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 (the “Applicants”) 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. Appendix to Rule 10 Notice of Appeal (“App.”) at 49. The Order consolidated Concord in Municipal Group 3 which consisted of Holderness, Ashland, Bridgewater, New Hampton, Bristol, Canterbury, Pembroke and Deerfield. *Id.* 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.” *Id.* at 49-50.

Concord subsequently requested the SEC to review and modify the order of the presiding officer. *Id.* at 95. Concord explained that it has unique issues that are separate and distinct from other municipalities, and that it needs to independently file pleadings and cross-examine witnesses in order to adequately protect its unique and specific interests. *Id.* at 95-100.

On April 12, 2016, the SEC held a hearing on Concord's request for review.<sup>1</sup> During the hearing, Concord requested to be removed from the intervenor group. Exhibit A at 91-104. Concord also requested clarification whether, in the event it was required to remain in the intervenor group, each of the municipalities in the group would be allowed to cross-examine witnesses with specific questions that pertain to their community. *Id.* at 327-28. The presiding officer stated that such a procedure might be permissible, but declined to issue a ruling in advance that would allow such a procedure. *Id.* at 327-28, 334.

On May 20, 2016, the SEC issued an order denying Concord's request to be provided separate and independent intervenor status. App. at 121. The SEC, however, reconfigured Municipal Group 3. *Id.* at 130-32. 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). *Id.* at 132. The written order did not clarify whether a municipal group would be allowed to divide questions among various members of the group for a particular witness. *Id.* at 148. Rather, the order stated that in the event an individual intervenor in the group *was unable to agree with the group*, it "has a right to file a motion stating its disagreement and a motion for alternative relief." *Id.*

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<sup>1</sup> A complete copy of the transcript is available at [http://www.nhsec.nh.gov/projects/2015-06/transcripts/2015-06\\_2016-04-12\\_transcript\\_pending\\_motions\\_lincoln.pdf](http://www.nhsec.nh.gov/projects/2015-06/transcripts/2015-06_2016-04-12_transcript_pending_motions_lincoln.pdf). The relevant portions of that transcript discussed herein are attached as Exhibit A.

Concord filed a timely motion for rehearing. *Id.* at 157. Concord explained that it has distinct interests from other municipalities, and that the requirement that it participate through a designated spokesperson is unreasonable because it prevents it from asking questions in technical sessions, conducting its own cross-examination and filing pleadings to address issues of concern to Concord. *Id.* In the alternative, Concord requested the SEC amend the intervention order to specifically 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. *Id.*

On June 23, 2016, the SEC held a hearing and voted to deny Concord’s rehearing motion, including the request for alternative relief.<sup>2</sup> Exhibit B at 13-16. During that hearing, the SEC explained that the ability of a member of an intervenor group to ask specific questions on a particular issue would first require a motion or request to the presiding officer. *Id.* at 9-16. On July 21, 2016, the SEC issued a written order confirming the denial of Concord’s rehearing motion. App. at 1. This appeal followed.

The Applicants now argue that the appeal should be dismissed. The Applicants argue that Concord’s interests are “virtually identical” to the interests of most municipal entities, and they suggest that Concord has failed to identify the manner in which it is unique. Memorandum of Law in Support of Motion for Summary Affirmance at 2, 5. The Applicants also

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<sup>2</sup> The full transcript of this hearing is located at [http://www.nhsec.nh.gov/projects/2015-06/transcripts/2015-06\\_2016-06-23\\_transcript\\_hearing\\_pending\\_mtns.pdf](http://www.nhsec.nh.gov/projects/2015-06/transcripts/2015-06_2016-06-23_transcript_hearing_pending_mtns.pdf). The relevant portions of that transcript discussed herein are attached as Exhibit B.

mischaracterize the designation of Concord’s Deputy City Solicitor as the “spokesperson” for the group for purposes of all proceedings, and further argue that no injury can be established because as the spokesperson, Concord “will have plenty of say in pleadings, cross-examination, and discovery.” *Id.* at 6. Lastly, the Applicants incorrectly contend that the appeal is premature and Concord’s rights are protected because it will be permitted to file a motion in the event it is unable to reach agreement with the group relative to the manner in which discovery, pleadings and cross-examination should be conducted. *Id.* at 2, 4, 7. As discussed below, each of those arguments lack a factual and/or legal basis.

## **II. ANALYSIS**

### **1. Concord Has Demonstrated That It Has Issues That Are Unique And Distinct From Deerfield, Canterbury and Pembroke**

The Applicants surprisingly state that the interests raised by Concord are “virtually identical” to the interests of most municipal entities, and therefore it was appropriate to combine Concord’s intervention with other municipalities. Memorandum of Law in Support of Motion for Summary Affirmance at 2, 5. This argument disregards the fact that the 192 mile transmission line travels through over thirty municipalities throughout the state, and the impacts on each municipality varies greatly depending on a number of issues such as (1) whether the lines will be overhead or underground; (2) the location and height of the lines and structures; (3) the type of structures being used (*i.e.*, monopole or lattice structures); (4) the specific commercial and residential areas that may be impacted, and concerns for those areas such as impacts to tax assessments and noise; (5) the natural resources impacted by the project, such as archeological sites, native plants and wildlife; (6) the visual impact resulting from the proposed projects depending on the scenic and cultural resources in the municipality; (7) whether a substation is proposed to be constructed in the municipality; and (8) the master plan and other

regulations of the municipality. The statement that Concord is “virtually identical” to the other municipalities, whose locations range from Pittsburg to Deerfield, grossly simplifies the impacts that this project will have on each of the municipalities throughout the state.

The Applicants also suggest that Concord has failed to identify the manner in which it is unique from Canterbury, Deerfield and Pembroke, because those municipalities are within “close geographic proximity.” Memorandum of Law in Support of Motion for Summary Affirmance at 5. However, as Concord discussed in its motion for review of order on intervention and motion for rehearing, the proposed project has significant and unique impacts on Concord. App. at 95, 157. These include:

- 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. 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).
- According to a September 25, 2012 study by the Appalachian Mountain Club, “Concord experiences the highest exposure with over 9,000 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.
- 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.

- Unlike much of the rest of the proposed route in the State, the proposed facility is projected to travel through heavily populated areas in Concord that include residential, commercial and industrial zones. For example, in Concord the project will abut McKenna's Purchase which has 148 residential condominium units. Some of the units at McKenna's Purchase are immediately adjacent to the proposed route. The proposed project includes the relocation of a large berm adjacent to McKenna's Purchase that is used to reduce noise from nearby commercial properties (such as audible backup alarms on forklifts).
- 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 commercial portion of Concord. The Gateway Performance District is a growth corridor that is actively managed and developed, and has some of Concord's highest valued commercial properties due to its desirable location. The Department of Energy stated that the proposed structures at this location will have an aesthetic/visual impact that 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 project also proposes the construction of lines and structures at Turtletown Pond, which is an important scenic and recreational area in Concord. The Department of

Energy stated that the lines and structures in this area will also have an aesthetic/visual impact that increases current conditions from “moderate” to “strong.”

- The proposed route bisects a lot that is owned in fee by Concord that is believed to provide a habitat for the Karner Blue butterfly, which is a federally endangered species.
- Unlike many of the municipalities, Concord has a direct ownership interest in properties affected by the Project. The proposed route crosses through several lots that Concord owns in fee simple, as well as other 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.

App. at 96-99.

The above referenced concerns are unique from Canterbury, Pembroke and Deerfield. *Id.* Moreover, those municipalities have their own concerns that need to be addressed. *Id.* The application also shows that Canterbury, Pembroke and Deerfield have specific natural and cultural resources that need to be protected, and the visual impacts in each municipality vary depending on the location and height of the lines and structures. The project in those three municipalities also includes different types of structures. The Applicants intend to use some lattice structures in other municipalities, whereas all the structures in Concord will be monopoles. Deerfield is further concerned about the project because the proposed terminal substation is planned to be built in its town. *Id.* at 100. Based on the foregoing, there should be no dispute that Concord’s concerns are not “virtually identical” to those of other municipalities.

2. Concord Has Not Been Designated As The Spokesperson In Municipal Group 3 For Purposes of All Proceedings

The Applicants also mischaracterize the designation of Concord’s Deputy City Solicitor as the “spokesperson” for the group for purposes of all proceedings, and incorrectly argue that no

injury can be established because Concord “will have plenty of say in pleadings, cross-examination, and discovery.” Memorandum of Law in Support of Motion for Summary Affirmance at 5-6.

As the Applicants should be aware, the SEC stated that each group may choose a different spokesperson depending on the witness. As discussed during the hearing on April 12, 2016, the spokesperson designated by a group does not need to be the spokesperson for every witness and issue. Attorney Michael Iacopino, Counsel for the SEC, explained:

When we have groups as intervenors or intervenors that are formed into groups, it has been the practice of the Committee to allow them to break up the work. . . . [W]e have always allowed the work to be broken up, so that, for instance, if one member of a particular intervenor group is -- you know, has a particular interest or has done research or has been assigned the task of dealing with a particular issue, that member of the group may, for instance, do the cross-examination of that subject matter expert. . . . So when we say ‘single spokesperson,’ it doesn’t mean that . . . only that person can speak for the group.

Transcript (April 12, 2016) at 321-23. Based on the foregoing, the Applicant’s statement that Concord is the designated spokesperson for purposes of all pleadings, examination and discovery is incorrect, because such a determination has not been made.

It should also be noted that, even assuming that Concord is the designated spokesperson for a particular witness, the SEC’s order still places an undue burden on Concord. The SEC’s approach is problematic for the group’s spokesperson because, under the current SEC order, that person could be required to cross-examine witnesses on issues that have no impact on the community that he or she represents. In the event that Concord is the chosen spokesperson for technical sessions and the cross-examine of a particular witness, Concord should not be forced to incur the expense of having its attorney prepare to address issues that are unique to Deerfield, Pembroke and/or Canterbury, and have no impact on Concord.

Alternatively, in the event that Concord's legal counsel is not the chosen spokesperson for a particular witness, it is unfair for Concord to be deprived of the ability to question the witness about issues of particular concern for its municipality. By way of example, 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 ask questions during a technical session or cross-examine a particular witness, Concord could 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 technical sessions and cross examination on issues that are unique to Concord, Pembroke and Canterbury, and have no bearing on Deerfield.

3. This Appeal Is Not Premature

The Applicants also assert that the appeal is premature and Concord's rights are protected because it will be permitted to file a motion in the event it is unable to reach agreement with the group relative to the manner in which discovery, pleadings and cross-examination should be conducted. Memorandum of Law in Support of Motion for Summary Affirmance at 2, 4, 7.

This argument overlooks the concerns that Concord has raised relative to the intervention order.

The SEC's order on intervention limits the manner in which Concord is allowed to participate in the proceedings because it does not currently allow Concord to participate in technical sessions, conduct cross-examination and to file supplemental pleadings on the issues of specific concern to Concord. Concord is not necessarily concerned that it will be unable to reach an agreement with its group, and to the contrary, believes that it will be able to work

cooperatively with the members. This is not the reason for the appeal. Rather, Concord is concerned because the consolidation of the Concord into Municipal Group 3 (South) imposes the unreasonable requirement of filing pleadings, participating in technical sessions and for cross-examination of witnesses through one spokesperson.

This unprecedented approach is not justified and not consistent with the rights afforded to municipalities under previous SEC proceedings. 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. Most importantly, to the extent Concord is chosen as the designated spokesperson for portions of the proceedings, Concord's legal counsel should not be required to address issues specific to other municipalities that have no relationship to Concord.

At the very least, the SEC should have amended its order to specifically allow Concord to participate in technical sessions and conduct additional cross-examination to address issues of specific concern to Concord. The SEC should also have also amended its order to allow Concord to file supplemental pleadings on relevant issues of specific concern to Concord. This is the relief that Concord expected, but did not receive in the SEC's order.

Respectfully submitted,

CITY OF CONCORD



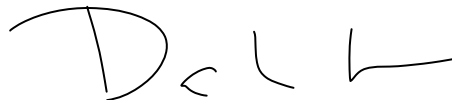
August 12, 2016

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

In accordance with Rule 26, I certify that I have provided notice of the foregoing 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.



August 12, 2016

By: \_\_\_\_\_

Danielle L. Pacik, Deputy City Solicitor

# EXHIBIT A





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**NOTED AS PRESENT:**

**ALSO PRESENT FOR THE SEC:** Michael J. Iacopino, Esq.  
Iryna Dore, Esq.  
(Brennan Lenehan)  
Pamela G. Monroe, Admin.

**Counsel for the Applicant:** Barry Needleman, Esq.  
Thomas B. Getz, Esq.  
(McLane Middleton)

G. Dana Bisbee, Esq.  
(Devine Millimet)

Marvin P. Bellis, Esq.  
(Eversource Energy)

**Counsel for the Public:** Peter C.L. Roth, Esq.  
Sr. Asst. Attorney General  
N.H. Dept. of Justice

Thomas Pappas, Esq.  
Elijah Emerson, Esq.  
(Primmer Piper...)

*(Further appearances as noted on  
sign-in sheets provided at hearing)*

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1 Are there other comments or questions?

2 *[No verbal response]*

3 CHAIRMAN HONIGBERG: Mr. Needleman,  
4 do you want to offer anything?

5 MR. NEEDLEMAN: No. We'll stand --  
6 we'll stand on our papers on this, too.

7 CHAIRMAN HONIGBERG: Thank you,  
8 Mr. Maher.

9 MR. MAHER: Thank you.

10 CHAIRMAN HONIGBERG: Ms. Pacik.

11 MS. PACIK: I just wanted to make  
12 sure that you received the City of Concord's  
13 motion for reconsideration on intervention,  
14 because we are a member of Municipal Group 3?

15 MR. IACOPINO: You're number 7 on  
16 my list here.

17 MS. PACIK: Thank you.

18 CHAIRMAN HONIGBERG: Does anyone  
19 want to discuss this situation further at this  
20 time?

21 *[No verbal response]*

22 CHAIRMAN HONIGBERG: No.  
23 Mr. Iacopino.

24 MR. IACOPINO: Well, the next is

1 number 7 on the list, the City of Concord's motion  
2 for review of their grouping in Municipal Group 3.  
3 They have laid out a number of reasons why they  
4 believe they should be a stand-alone party within  
5 the -- within the proceeding.

6 I think everybody has a copy of  
7 their motion. It would take me a long time to go  
8 through every reason.

9 CHAIRMAN HONIGBERG: And Ms. Pacik  
10 is not going to go through every reason. She's  
11 going to hit the highlights and supplement what  
12 needs to be supplemented.

13 MS. PACIK: Absolutely. And I  
14 appreciate the work of the Committee trying to  
15 coordinate all of the parties and also the full  
16 agenda that you have today. But Concord is very  
17 concerned about the intervention order. And we  
18 are asking that we be allowed to have full  
19 intervention. The City of Concord is the largest  
20 municipality that this project goes through. We  
21 have a third of the population --

22 CHAIRMAN HONIGBERG: Ms. Pacik, let  
23 me stop you right there. You were granted full  
24 intervenor status. Okay?

1 MS. PACIK: We were, but we were  
2 grouped with Municipal Number -- Group Number 3.

3 CHAIRMAN HONIGBERG: That's  
4 correct. You're in a group, so speak to that, --

5 MS. PACIK: Yes.

6 CHAIRMAN HONIGBERG: -- because you  
7 were granted full interventor status.

8 MS. PACIK: We are asking for the  
9 opportunity to be able to have our own  
10 spokesperson for the adjudicatory hearing, as well  
11 as doing our own data requests, and also filings.  
12 There are significant problems being grouped with  
13 Municipal Group 3 for those aspects of this  
14 process. The City of Concord is represented by  
15 municipal counsel. It's unique in that situation.

16 We have unique issues in Concord  
17 that are not the same as some of the other  
18 municipalities. For example, Deerfield has a  
19 substation. Holderness does not have any of the  
20 project going through its community. Ashland has  
21 issues with its water and sewer.

22 For the City of Concord, we have  
23 issues where it goes through heavily populated  
24 residential areas, it goes through commercial

1 areas. We have the Karner blue butterfly. We own  
2 parcels of land. A lot of the property we have,  
3 about 4 miles of the first 8.1 miles, are actually  
4 protected by conservation easements.

5 We need to make sure that the City  
6 of Concord has a spokesperson that can talk about  
7 those important issues. And, as municipal  
8 counsel, it's going to be difficult for me to be  
9 the spokesperson on aesthetics and impacts for  
10 Municipal Group 3, because I can't talk about the  
11 substations. And I can't talk about the sewer and  
12 the water issues that Ashland has. The only  
13 issues that I can address are the ones that are  
14 unique for the City of Concord.

15 We also want to put out data  
16 requests. And there's a lot of information that  
17 we're going to need to proceed with this case.  
18 The problem with coordinating with nine other  
19 municipalities, some of which have different  
20 boards and commissions and boards of selectmen,  
21 it's very hard. And we've experienced this in  
22 just the last few weeks trying to file the motions  
23 that we submitted to you. We would circulate  
24 them, sometimes a few days in advance, and not

1 receive any response. And the problem is that,  
2 for a lot of public forums, they need to have 24  
3 hours notice before they can even schedule a  
4 meeting. A lot of times these are volunteers,  
5 trying to coordinate and find a quorum is very  
6 difficult for these boards.

7 And, for municipalities with a big  
8 interest in this case, to try to be sending our  
9 pleadings or sending out, I suppose, drafts of  
10 cross-examination, to different boards, where  
11 you're not even getting a response, and trying to  
12 do all of this in a timely manner under very  
13 strict schedules, is basically impossible. And it  
14 takes away our ability to protect the interests in  
15 Concord, especially where we're represented, we  
16 can move pretty fast on certain issues.

17 I would note, what I do not want to  
18 do, and what I do not intend to do, is repeat  
19 arguments that are made by other groups in this  
20 case. And I appreciate your trying to consolidate  
21 the case and make it go quickly and efficiently.  
22 And, certainly, if another issue has been raised  
23 by another party, the City of Concord will not be  
24 going forward and presenting the same arguments.

1 And I would anticipate that the Chair would be  
2 making rulings and stopping that from happening.

3 But, in the first instance, we do  
4 ask that we have the right to be intervenors, and  
5 to do our own data requests and to do our own  
6 filings and to do our own cross-examination.

7 And I would note that there are  
8 sometimes separate issues, for example, the  
9 confidentiality objection that we recently filed.  
10 We could not get agreement with all of Municipal  
11 Group 3 as to whether or not this economic report  
12 should be public or if it was okay to have it  
13 under a protective order. We're not always going  
14 to agree on everything. And, trying to get  
15 filings in in a timely basis, and even getting  
16 other municipalities' responses in a timely basis,  
17 it's just simply unworkable.

18 CHAIRMAN HONIGBERG: Thank you,  
19 Ms. Pacik.

20 Mr. Needleman, do you want to add  
21 anything to what you've already said?

22 MR. NEEDLEMAN: Just one thing,  
23 going back to something that Mr. Iacopino and  
24 Ms. Bailey mentioned before. At the end of our

1 filing the other day on intervention motions, we  
2 suggested that the Committee focus on recommending  
3 procedures to groups that would better clarify how  
4 they could manage these types of issues.

5 I would commend to the Committee  
6 focusing on Superfund litigation as one example.  
7 That is a place where there has been an enormous  
8 amount of very complex civil litigation, and it  
9 has specifically dealt with managing large groups  
10 that necessarily have diverse interests and has  
11 done so very successfully.

12 And I think the sorts of things  
13 that Ms. Pacik is talking about here, I appreciate  
14 those issues, but they seem to me to be largely  
15 issues of management, rather than issues as to why  
16 groups need to be carved out. And I think a lot  
17 of the argument she's making, others could  
18 probably make as well.

19 CHAIRMAN HONIGBERG: Are there  
20 questions?

21 Mr. Way.

22 MR. WAY: Ms. Pacik, I was also  
23 wondering, too, when you look at the sheer size of  
24 Group Number 3, I can appreciate what you're



1 saying, in terms of managing logistics. But has  
2 there been some discussions in Concord as if you  
3 could carve up the group? Because I think some of  
4 the arguments you make, I mean, would just seem to  
5 suggest that everybody should have single party  
6 status.

7 So, can you live with a reduced  
8 grouping or have you talked about that?

9 MS. PACIK: The only thing, to me,  
10 that's workable is I can certainly try to  
11 coordinate as much as possible with the other  
12 municipalities that are represented by counsel,  
13 because that is easy, it's an easy communication  
14 to have going back and forth. And we are already  
15 trying to work as much together as possible, which  
16 is why we have been filing some joint motions with  
17 the Committee.

18 But, in terms of trying to work  
19 with different boards and agencies who are not  
20 represented, it's simply not workable, especially  
21 because boards and -- those boards have to work as  
22 a group. You can't just work with one person in  
23 isolation. The board of selectmen, the only way  
24 they operate is as the board of selectmen, and

1 that's with a quorum of them.

2 CHAIRMAN HONIGBERG: Are there  
3 other questions? Comments?

4 Commissioner Bailey.

5 CMSR. BAILEY: Can you identify the  
6 municipalities in Group 3 that are represented by  
7 counsel?

8 MS. PACIK: I might need some help  
9 here. Steve.

10 MR. WHITLEY: Steven Whitley, for  
11 the Towns of Bridgewater and New Hampton.

12 MS. FILLMORE: Christine Fillmore,  
13 for the Town of Bristol.

14 MR. IACOPINO: Ms. Pacik, you  
15 mention that you're concerned about having to get  
16 permission for your cross-examinations and things  
17 like that. That's not really -- you're not really  
18 required to do that, are you? When the City of  
19 Concord is sued, you don't go into court and  
20 defend the City after having your  
21 cross-examination of witnesses reviewed by your  
22 City Council, correct?

23 MS. PACIK: What I'm talking about  
24 is, if we have to have one spokesperson for the

1 cross-examination, for example, of one witness,  
2 you're asking us to coordinate between all the  
3 municipalities in Group Number 3, to make sure  
4 that everybody is okay with the line of  
5 questioning. I'm not talking about going to my  
6 City Council. I'm talking about trying to work  
7 cooperatively with the other municipalities in  
8 Group Number 3, and trying to coordinate, putting  
9 together a cross-examination with nine other  
10 municipalities, many of which are not represented,  
11 is basically impossible.

12 MR. IACOPINO: Okay. So, you don't  
13 think that you could designate one party -- one  
14 person within your group to do a  
15 cross-examination, and then vet that with them or  
16 discuss it with them, find out what issues they're  
17 going to address, and then let them do it?

18 MS. PACIK: Well, it's going to be  
19 hard, especially where you have unrepresented  
20 municipalities that need to work as a whole, in  
21 terms of their entire board. So, trying to find  
22 one person that's going to do everything, and  
23 coordinate and vet it with them, I don't think  
24 that is workable.

1 MR. IACOPINO: Maybe that's where  
2 you threw me off, because I don't know that there  
3 has to be a -- for instance, if you have a town in  
4 a group that has a board of selectmen, I don't  
5 know if there has to be a public meeting for the  
6 board of selectmen to say "okay, let's ask them to  
7 take these" -- "to ask these questions on  
8 cross-examination".

9 MS. PACIK: Well, they could have a  
10 nonpublic meeting. But, regardless, they have to  
11 have a meeting, and it has to be duly noticed, and  
12 it has to be under the Right-to-Know Law. I can't  
13 just be e-mailing all three of them and having  
14 them respond. That would violate 91-A.

15 MR. IACOPINO: When your City is  
16 sued and you represent them in court, do you  
17 have -- does your City Council have a public  
18 meeting over your cross-examinations?

19 MS. PACIK: It's different. I  
20 represent the City of Concord. So, under the  
21 ordinance, I can take whatever measures are  
22 necessary to prepare for the case. If I need to  
23 brief our City Council, I would do it in an  
24 attorney/client or a nonpublic meeting. But, no,

1 I do not work with them. But the issue is --

2 MR. IACOPINO: Can a representative  
3 from each of those other towns do the same thing?

4 MS. PACIK: That's up to the town,  
5 if they feel comfortable designating a  
6 representative. But I would say that boards are  
7 supposed to operate as a board. Typically, you  
8 don't just have one person working independently.

9 MR. IACOPINO: Thank you.

10 CHAIRMAN HONIGBERG: So, if one of  
11 the towns in the group, pick one, Canterbury, if  
12 the Canterbury Selectmen got together and said  
13 "we're authorizing this particular person to work  
14 with the rest of the municipal members of this  
15 group", then you could work with that person,  
16 correct?

17 MS. PACIK: Theoretically. If  
18 that's what the town wants to do, I could work  
19 with that person. But I would note that it still  
20 puts me in a position that's difficult, because,  
21 if I'm the spokesperson, I can't be out there  
22 advocating and working on issues that are  
23 completely unrelated to the City of Concord.

24 CHAIRMAN HONIGBERG: I'm not --

1 putting aside the second part of that, I'm just  
2 trying to help Mr. Iacopino and others understand  
3 the difference between cities and towns. And, in  
4 a city like Concord, and this is likely true in  
5 other cities as well, when there's -- the  
6 structure is such that you are empowered by the  
7 City already by the ordinances to serve as their  
8 counsel, correct?

9 MS. PACIK: That's correct. And  
10 we're a city manager form of government. So, I  
11 report to the City Manager, not to, necessarily,  
12 the City Council.

13 CHAIRMAN HONIGBERG: Whereas, in  
14 the towns, unless they hire a lawyer, they have to  
15 act as a body for each decision that they make, be  
16 it the board of selectmen, a planning board, a  
17 zoning board, correct?

18 MS. PACIK: Yes.

19 CHAIRMAN HONIGBERG: If they were  
20 to hire a lawyer, that would then become a  
21 different situation, you would deal with the  
22 lawyer. And that's what you're saying, isn't it?  
23 That working with the towns that have retained  
24 counsel is a different situation for you, correct?

1 MS. PACIK: That is correct.

2 CHAIRMAN HONIGBERG: Are there  
3 other questions or comments regarding this?

4 *[No verbal response]*

5 CHAIRMAN HONIGBERG: I don't think  
6 so.

7 MS. PACIK: Thank you.

8 CHAIRMAN HONIGBERG: Does anyone  
9 want to take this matter up with the groupings --  
10 are there other subgroupings within 3 that need to  
11 be dealt with?

12 MR. IACOPINO: The group filed the  
13 motion that was referenced before that addresses  
14 having a steering committee in the procedural  
15 matters, but I think that that is the only --

16 CMSR. BAILEY: Deerfield's.

17 MR. IACOPINO: I'm sorry, and  
18 Deerfield has filed -- Deerfield Conservation  
19 Commission has filed a petition for review seeking  
20 to be grouped only with the Town of Deerfield.

21 CHAIRMAN HONIGBERG: Is Deerfield  
22 here?

23 *[No verbal response]*

24 CHAIRMAN HONIGBERG: Anybody here

1 Ms. Pacik, I see you grabbing the  
2 mike.

3 MS. PACIK: Thank you. One  
4 question is, I understand that the groups can  
5 divide up spokespeople for different expert  
6 witnesses. But, for example, the issue I raised  
7 before is, for example, the City of Concord, if  
8 there's an issue at Turtle Pond or the Heights  
9 that I feel I need to address, yet I don't want to  
10 be cross-examining an expert on a substation  
11 issue, which is unrelated to Concord, for example,  
12 Deerfield, can the group split up specific issues  
13 for each expert, so I have an opportunity to ask  
14 my questions that would not be repetitive of  
15 another municipality in my group?

16 CHAIRMAN HONIGBERG: Actually, one  
17 of the things I was going to ask Mr. Iacopino, in  
18 part of his discussion with Commissioner Bailey,  
19 is another way to look at what we're looking for  
20 is, rather than a single spokesperson, one at a  
21 time?

22 MR. IACOPINO: That would be a good  
23 description.

24 CHAIRMAN HONIGBERG: I think,



1 Ms. Pacik, if you're in that situation, what you'd  
2 want to do is make it clear who the spokesperson  
3 is for a particular issue. And, then, we would  
4 expect you, your group, to hold to that. So that  
5 you wouldn't ask a series of questions about that  
6 topic, and then tag off to Mr. Whitley or some  
7 other representative within that group to also ask  
8 questions about that same issue.

9 MS. PACIK: Absolutely. And we  
10 would be respectful of the rules. But it would  
11 make me feel a lot more comfortable with the  
12 process if I could limit the scope of my  
13 cross-examination to issues pertaining to my  
14 community.

15 CHAIRMAN HONIGBERG: I think it's  
16 going to be issue-specific. There may be  
17 situations where groups all have -- are talking  
18 about really one issue, but there are different  
19 aspects of it. When it comes to a particular  
20 thing within Concord that is affected, that may  
21 be -- you may be the only person who can speak to  
22 that. I think we just need to communicate about  
23 what the plan is, so that everybody can be  
24 prepared.

1 MS. PACIK: Okay. And one other  
2 comment is, if there was a potential to amend the  
3 order, so it doesn't require the designation of a  
4 spokesperson, but rather have it perhaps say "a  
5 spokesperson or steering committee", so that, when  
6 we're filing pleadings, it doesn't have to be  
7 under one person's name.

8 CHAIRMAN HONIGBERG: An order is  
9 going to issue as a result of this meeting and the  
10 votes that we take today. That order I expect  
11 will include some clarifying language on this  
12 issue.

13 MS. PACIK: Thank you.

14 CHAIRMAN HONIGBERG: Mr. Whitley.

15 MR. WHITLEY: Thank you, Mr.  
16 Chairman. Just very briefly, touching on Attorney  
17 Pacik's question on modifying the order. I would  
18 ask that, in addition to the reference to  
19 "steering committee" or something along those  
20 lines, that there also be language added that  
21 memorializes what's been stated here about a party  
22 being able to file something or question a  
23 witness, if they feel that the group has not  
24 advanced that particular interest, because it

1 don't have a position or they just failed to  
2 respond, they need to identified what's going on.

3 I think we dealt with the notion  
4 that, if you have a divergent interest from your  
5 group, and you want to file something else, you  
6 would be wise to file it with the notice that says  
7 "we disagree, and here's what we want to say."  
8 So, I think we've already identified that. We've  
9 already told you to be efficient in that way in  
10 the circumstances where it's appropriate.

11 MS. BIRCHARD: We will.

12 CHAIRMAN HONIGBERG: I think, to  
13 extent we need to memorialize that, we will.

14 Mr. Palmer.

15 MR. PALMER: Yes. I just have a  
16 question. My name is Walter Palmer. I'm with the  
17 Abutters Group from Plymouth -- from Bethlehem to  
18 Plymouth. And you just voted -- just voted to  
19 keep Mr. Ahern in our group, even though he  
20 testified that his issue is very different from  
21 the issues of the rest of our group, and that he's  
22 been conducting research for about four years on  
23 his issue, and he feels that another spokesperson  
24 in the group would not be able to handle it. As

1 the temporary spokesperson for the group, I also  
2 agree that I feel I would be out of depth trying  
3 to represent Mr. Ahern's issues.

4 So, as I understand what  
5 Mr. Iacopino just said, when it comes time to  
6 discuss Mr. Ahern's issues, I will be able to turn  
7 the floor over to him and he will be allowed to  
8 discuss his issues in the detail that he needs to.  
9 Is that correct?

10 CHAIRMAN HONIGBERG: I am not going  
11 to -- we're not going to, I think, issue a ruling  
12 in advance that that's always going to be the  
13 case. I think there may be some judgment we have  
14 to apply about whether, in fact, Mr. Ahern's issue  
15 is different from what you've articulated, what  
16 the group wants to pursue.

17 MR. PALMER: Uh-huh.

18 CHAIRMAN HONIGBERG: But,  
19 conceptually, I think what Mr. Iacopino outlined  
20 is just what you said. That, if he has different  
21 issues, and does not want to join your group's  
22 issues, he will be doing it separately. But I  
23 think the way Commissioner Bailey spoke of it when  
24 we were discussing Mr. Ahern's situation, to the

1 extent that his interests align with the group's,  
2 he should be speaking through the group.

3 MR. PALMER: Right. Okay. And my  
4 second question, and I don't know if this is a  
5 separate matter or not, that he may -- we may need  
6 more than 50 questions, if he has, when it comes  
7 time to propound questions to the Applicant, I  
8 don't know that the 50 questions will be  
9 sufficient, since he has one area in which he has  
10 a lot of questions, and our group will have in  
11 other areas.

12 MR. IACOPINO: Well, what I would  
13 suggest, in the first instance, is that you speak  
14 with the party who you're asking the questions to,  
15 most likely the Applicant, --

16 MR. PALMER: Right.

17 MR. IACOPINO: -- and see if  
18 they're willing to answer them, or you send them  
19 the questions and see if they're willing to waive  
20 their objection to more than 50. I recommend that  
21 in every case the parties speak to each other  
22 first, before it becomes an issue, because I think  
23 you'll be surprised that oftentimes they'll agree.  
24 That's the first thing.

# EXHIBIT B

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STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

June 23, 2016 - 8:45 p.m.  
Plymouth High School  
86 Old Ward Bridge Road  
Plymouth, New Hampshire

NHPUC 27JUL'16PM1:55

IN RE: SEC DOCKET NO. 2015-06  
JOINT APPLICATION OF NORTHERN  
PASS LLC AND PUBLIC SERVICE  
COMPANY OF NEW HAMPSHIRE d/b/a  
EVERSOURCE ENERGY FOR A  
CERTIFICATE OF SITE AND FACILITY  
(Hearing on Pending Motions)

|  |                                |
|--|--------------------------------|
| PRESENT FOR SUBCOMMITTEE                             | SITE EVALUATION COMMITTEE      |
| Chairman Martin Honigberg<br>(Presiding Officer)     | Public Utilities Comm.         |
| Cmsr. Kathryn M. Bailey<br>Christopher Way, Designee | Public Utilities Comm.<br>DRED |
| William Oldenburg, Designee                          | Dept. of Transportation        |
| Patricia Weathersby                                  | Public Member                  |
| Rachel Whitaker                                      | Public Member                  |

ALSO: Michael J. Iacopino, Esq. - Counsel for SEC  
Pamela G. Monroe - SEC Administrator

COURT REPORTER: Susan J. Robidas, LCR No. 44

1 NOTED AS PRESENT:

2 Counsel for the Applicant: Barry Needleman, Esq.  
3 (McLane Middleton)

4 Counsel for the Public: Peter Roth, Esq.  
5 (Sr. Asst. Atty. Gen.)

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1 motion to deny.

2 CHAIRMAN HONIGBERG: Is there a  
3 second?

4 CMSR. BAILEY: I'll second.

5 CHAIRMAN HONIGBERG: Commissioner  
6 Bailey seconds. Is there any further  
7 discussion of the McKenna's Purchase motion?

8 (No verbal response)

9 CHAIRMAN HONIGBERG: Seeing none, are  
10 you ready for the question?

11 All right. All those in favor  
12 of the motion to deny McKenna's Purchase for  
13 rehearing will vote "aye." Those opposed and  
14 would instead grant the motion for rehearing  
15 will say "No."

16 All in favor please say "Aye."

17 [Multiple members indicating "aye".]

18 CHAIRMAN HONIGBERG: Are there  
19 opposed?

20 (No verbal response)

21 CHAIRMAN HONIGBERG: The ayes have  
22 it. The motion for hearing by McKenna's  
23 Purchase is denied.

24 The third is by the City of

1 Concord. Commissioner Bailey.

2 CMSR. BAILEY: I'll start the  
3 discussion. In their motion, they claim that  
4 Concord won't be able to conduct  
5 cross-examination to address issues of specific  
6 concern to Concord that are not addressed by  
7 the group's spokesperson or by any other  
8 party's cross-examination. And I don't recall  
9 that that was -- that wasn't my understanding.  
10 I thought that if their group didn't represent  
11 a specific interest or they weren't able to  
12 work it out with the group, that they would be  
13 allowed to file a motion, and/or they would  
14 have time for cross-examination on their issue,  
15 and they would do the cross-examination on  
16 their issue, even if they weren't the group  
17 spokesperson. Is my understanding of that  
18 incorrect?

19 CHAIRMAN HONIGBERG: That's my  
20 understanding as well. If there's a member of  
21 a group that is not being represented by the  
22 group, or who has matters that they need to  
23 bring that are separate from what the group is  
24 doing, they need to bring that to the

1            Subcommittee's attention, either something in  
2            writing, or if it comes up at a hearing or  
3            during the adjudicative hearing on the merits,  
4            they'll have to be dealt with then. But  
5            that's -- you are correct.

6            MS. WEATHERSBY: Mr. Chair, that  
7            would be the same regarding the technical  
8            sessions; correct? They can have a chance to  
9            ask questions at a technical session if they  
10           feel as though their spokesperson is not  
11           adequately representing their interests; is  
12           that correct?

13           CHAIRMAN HONIGBERG: I believe that  
14           is correct.

15           Any further discussion?

16           (No verbal response)

17           MR. OLDENBURG: Mr. Chairman.

18           CHAIRMAN HONIGBERG: Mr. Oldenburg.

19           MR. OLDENBURG: I need clarification  
20           on the first point. So, if Town A -- I don't  
21           know -- Group A or something says they have an  
22           issue with the environment, and their group  
23           takes a certain tact, one of the towns within  
24           that group could also question or cross-examine

1 or testify on the environment? I mean, is that  
2 what we're saying?

3 CHAIRMAN HONIGBERG: There's a legal  
4 question buried in here for Mr. Iacopino  
5 regarding the --

6 MR. OLDENBURG: I guess my point is,  
7 just because two towns in a group disagree on  
8 who's going to cross-examine someone, they both  
9 get to cross-examine?

10 CHAIRMAN HONIGBERG: No, it's not  
11 who. It's not who. It's on issues --

12 MR. OLDENBURG: I mean if they have a  
13 different approach to an issue.

14 CHAIRMAN HONIGBERG: No, they have to  
15 have a different position on an issue. If two  
16 parties are opposed, they have to have  
17 different positions in order for it to make  
18 sense. If they're taking the same position but  
19 differ on strategy, that's something they need  
20 to work out within their group, in my view.

21 Mr. Iacopino, do you have any  
22 thoughts on this, in terms of what the legal  
23 framework in which we're working, how that  
24 dictates what we must do or allow parties to

1 do?

2 MR. IACOPINO: Okay. Because they  
3 were grouped as intervenors, the statute on  
4 intervention, R.S.A. 541, I believe it's  
5 Section 33, as well as our rules, say that if a  
6 grouping substantially interferes with the  
7 interests of the intervenor, it shouldn't be  
8 granted. The way that we -- they shouldn't be  
9 grouped. The way that this Committee has  
10 assessed the interests of the intervenors, we  
11 found that their -- you found that their  
12 interests are not inconsistent and grouped them  
13 accordingly. If it turns out that something  
14 inconsistent does occur within a group, you've  
15 also told the intervenor groups that they  
16 should bring that to the attention of the  
17 Committee and seek the appropriate relief. It  
18 could be that they have different interests  
19 with respect to an environmental issue. Maybe  
20 they might be on opposite sides, although I  
21 don't think that's the most likely issue. I  
22 think more likely where there might be some  
23 differences, they may not be inconsistent, but  
24 they may have different interests in that one

1 town. For instance, just by way of example:  
2 They might have a particular wetland that they  
3 are particularly concerned about; whereas, the  
4 other two or three towns in that group may not  
5 have concerns about that and don't want to, for  
6 instance, send limited data requests on it.  
7 The town with the wetlands might move the  
8 Subcommittee to allow them to do that.

9 Same thing at a hearing. If  
10 they -- use the same example. If the person  
11 who is cross-examining on behalf of that  
12 particular intervenor group chooses not to ask  
13 any questions about that particular wetland,  
14 and the town where the wetland exists, that's  
15 part of their interest, they should make that  
16 request of the presiding officer. And assuming  
17 that the presiding officer and Subcommittee  
18 find that, to protect their interests, it's  
19 necessary for them to do that, they would be  
20 permitted to do it. I don't know that you'll  
21 have any situations where the groupings are  
22 people that are diametrically opposed on any  
23 particular issue. It's probably more like the  
24 wetlands example that I provided to you. But

1           that's the way that -- those are the rules and  
2           the law of the case in this particular docket  
3           right now, given the orders that the  
4           Subcommittee has issued. And they are  
5           consistent with R.S.A. 541 and with our rules.

6                       MR. OLDENBURG: Thank you.

7                       CHAIRMAN HONIGBERG: Further  
8           questions or discussion on the Concord motion?  
9           Commissioner Bailey.

10                      CMSR. BAILEY: I understand that this  
11           proceeding is extremely difficult for all  
12           parties. And I don't really see how this is  
13           more difficult for Concord than it is for all  
14           the other parties, and even, frankly, for us.  
15           This is not an easy process to go through, and  
16           we all have to figure out a way to get there.  
17           I think if we granted this intervention -- and  
18           I don't think that Concord has raised anything  
19           that we've overlooked or mistakenly conceived.  
20           You know, they point out that the legislature  
21           intended for municipalities to have an  
22           opportunity to provide their views relative to  
23           the site and facility. Well, we're giving them  
24           that opportunity. It's not how they would

1 prefer to do it. It's not how they get to do  
2 it when the Project is located only in their  
3 town. But we can't -- I don't think that we  
4 can grant them separate status, because then  
5 everybody else will make the same request and  
6 the process will get even more unwieldy than it  
7 is. And we have a statutory deadline to get it  
8 done by a certain date. So, that's my opinion.

9 CHAIRMAN HONIGBERG: Other thoughts  
10 or comments? Would someone like to make a  
11 motion? Don't all rush at once. Commissioner  
12 Bailey.

13 CMSR. BAILEY: I'll move, based on  
14 what I just said, to deny Concord's motion.

15 CHAIRMAN HONIGBERG: Is there a  
16 second?

17 MR. WAY: I'll second that.

18 CHAIRMAN HONIGBERG: Mr. Way seconds.  
19 Is there any further discussion?

20 [No verbal response]

21 CHAIRMAN HONIGBERG: Are you ready  
22 for the question?

23 All right. All those in favor  
24 of Commissioner Bailey's motion to deny



1 Concord's motion for rehearing regarding the  
2 groupings will vote aye. Those who are opposed  
3 to the motion, would instead like to grant  
4 Concord's motion, will vote no. All in favor  
5 please say "Aye."

6 [Multiple members indicating "aye".]

7 CHAIRMAN HONIGBERG: Are there any  
8 opposed?

9 (No verbal response)

10 CHAIRMAN HONIGBERG: The ayes have  
11 it, and Concord's motion is denied.

12 Mr. Iacopino, are there any  
13 other motions that we need to deal with this  
14 evening?

15 MR. IACOPINO: There were none others  
16 that were noticed, Mr. Chairman. And I'm  
17 unaware of any other motion that is outside of  
18 the objection period and ripe for consideration  
19 by the Subcommittee. There are a couple of  
20 motions that are pending that are procedural  
21 for the presiding officer, but those are  
22 motions that can be dealt with in written form.

23 CHAIRMAN HONIGBERG: Ms. Monroe, is  
24 there anything else we need to do this evening

1 before we adjourn?

2 MS. MONROE: No.

3 CHAIRMAN HONIGBERG: Would someone  
4 make a motion to adjourn?

5 CMSR. BAILEY: I'll make a motion to  
6 adjourn.

7 CHAIRMAN HONIGBERG: Commissioner  
8 Bailey moves we acknowledge.

9 MR. WAY: Second.

10 CHAIRMAN HONIGBERG: Mr. Way seconds.  
11 All in favor say "Aye."

12 [Multiple members indicating "aye".]

13 CHAIRMAN HONIGBERG: Are there any  
14 opposed?

15 (No verbal response)

16 CHAIRMAN HONIGBERG: We are  
17 adjourned.

18

19 (Whereupon the hearing was adjourned at  
20 9:02 p.m.)

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