

**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

**MOTION TO STAY TECHNICAL SESSIONS AND
REQUEST FOR EXPEDITED RULING**

Municipal Group 1 South, consisting of the Towns of Northumberland, Whitefield, Dalton, Bethlehem, and Littleton (“Municipal Group 1 South”), by and through attorneys for Littleton (Mitchell Municipal Group, P.A.) and attorneys for Northumberland, Whitefield and Bethlehem (Gardner, Fulton & Waugh, PLLC), Municipal Group 2, consisting of the Towns of Sugar Hill, Franconia, Easton, Woodstock and Plymouth (“Municipal Group 2”), by and through attorneys for Woodstock (Mitchell Municipal Group, P.A.) and attorneys for Sugar Hill, Franconia, Easton, and Plymouth (Gardner, Fulton & Waugh, PLLC), Municipal Group 3 South, consisting of the Towns of Deerfield, Pembroke, Canterbury and the City of Concord (“Municipal Group 3 South”), by and through attorneys for Town of Deerfield (Mitchell Municipal Group, P.A.) and attorneys for City of Concord (City Solicitor’s Office), Municipal Group 3 North, consisting of the Towns of Holderness, Ashland, Bridgewater, New Hampton and Bristol (“Municipal Group 3 North”), by and through attorneys for Ashland Water & Sewer District, Bridgewater, and New Hampton (Mitchell Municipal Group, P.A.) and attorneys for Bristol (Gardner, Fulton & Waugh, PLLC), and the Society for the Protection of New Hampshire Forests (“Forest Society”), by and through its counsel BCM Environmental & Land Law, PLLC, respectfully move to stay the technical sessions scheduled between September 9 through September 30, 2016 in accordance with RSA 162-H:7, stating as follows:

1. The factual and procedural history of the data request efforts by the Intervenors to the Applicants is set forth in the Orders on Motion to Extend Deadlines for Filing Motion to Compel order issued by the Site Evaluation Committee dated August 2, 2015. At this point, the parties in this matter are scheduled to have technical sessions for twenty-six different witnesses in this matter between the dates of September 6, 2016 to September 30, 2016.

2. The undersigned Intervenors have been working diligently to prepare for the technical sessions. A number of issues beyond their control, however, have made it impracticable to proceed with any further technical sessions that have been scheduled without jeopardizing their due process rights to meaningful participation. In short, the technical sessions should be stayed because too much required information is unknown and still has not been produced. The particular issues are discussed as follows.

3. First, the Intervenors are still waiting to receive a large number of confidential documents that were provided to Counsel for the Public in response to its first set of data requests. These confidential documents are important to these proceedings because they pertain to issues regarding the proposed public benefit of the project. The Intervenors had anticipated receiving all of the responses and documents provided to Counsel for the Public well in advance of the technical sessions. The procedural orders issued by the SEC contemplated that such information would be shared between all parties, and towards that end, Counsel for the Public was scheduled to propound data requests before all other parties to avoid duplication of data requests. Despite requests by the Intervenors to receive these documents, the confidential documents provided to Counsel for the Public have still not been provided to the undersigned Intervenors as of the date of the filing of this motion. This delay is prejudicial to the Intervenors

because they need to review the documents and share the documents with their experts in order to prepare questions for the upcoming technical sessions.

4. Second, the Intervenors only recently received the privilege and confidentiality log from the Applicants. The Applicants stated some weeks ago that they are preparing such a log, but they did not provide the log until the afternoon of September 2, 2016, less than one business day from the commencement of technical sessions. There is no justification for this delay. To the extent that documents were withheld under the attorney-client privilege or work-product doctrine, a log should have been provided at the same time that the discovery responses were due. The Applicants have notified the parties that certain “highly confidential” documents would be withheld from the undersigned Intervenors, even if they have signed confidentiality agreements. The undersigned Intervenors disagree that it is appropriate to withhold those documents, and will soon be filing a motion to compel those documents. The Intervenors are also still reviewing the privilege log to identify whether the withholding of other documents should be challenged. It is unfair for the Applicants to insist on short deadlines for this proceeding, and then notify the Intervenors at the eleventh hour that important documents are being withheld from their review. The technical sessions should be stayed until these discovery issues can be addressed.

5. Third, there are a large number of motions to compel that are still pending. Without getting into all of the specifics of those motions, the motions seek a substantial amount of information about the topics of the technical sessions that the Applicants have not produced.

6. Fourth, as raised in motions filed by Counsel for the Public and several Intervenor groups, the Applicants have still not completed their geotechnical investigations to determine their final design and have not provided adequate wetlands information, and therefore requests

have been made for the SEC to order the Applicants to amend the Application. It is illogical to proceed with technical sessions when the Applicants have not provided such amendments, as the Applicants have not provided accurate and detailed information about the actual path or wetlands impacts of the route.

7. Overall, the lack of information is highly likely to hinder the orderly conduct of the technical sessions so much so that postponing them is the better option. Rescheduling them to a later date, as described below, will allow the technical sessions to proceed in an orderly and more efficient manner.

8. The technical sessions should be stayed until the motions to compel are resolved, the requests for application amendments and schedule adjustments are resolved, and if amendments are ordered, until a period of time after the Applicants have provided the amendments.

9. Counsel for the Public assents to the relief sought. As of the time of the filing of this motion, the following Intervenor Groups have provided notice that they assent to the relief sought: (1) Intervenor Group consisting of Appalachian Mountain Club, Conservation Law Foundation and Ammonoosuc Conservation Trust; (2) New England Power Generators Association; (3) Grafton County Commissioners; (4) Deerfield Abutting Property Owners; (5) Non-Abutting Property Owners from Ashland to Deerfield; (6) Ashland to Concord Abutting Property Owners; and (7) Whitefield, Dalton, and Bethlehem, Abutting Property Owners. The Applicants object to the relief sought.

WHEREFORE, it is respectfully requested that the Chair of the Site Evaluation Committee:

- A. Grant the motion to stay;
- B. Issue the ruling in an expedited manner; and
- C. Grant such other and further relief as may be just.

Respectfully submitted,

CITY OF CONCORD

Dated: September 7, 2016

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**TOWNS OF BRIDGEWATER, DEERFIELD,
NEW HAMPTON, LITTLETON,
WOODSTOCK AND THE ASHLAND WATER
AND SEWER DISTRICT**

By and through their attorneys,

MITCHELL MUNICIPAL GROUP, P.A.

Dated: September 7, 2016

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**TOWNS OF BRISTOL, BETHLEHEM,
EASTON, FRANCONIA,
NORTHUMBERLAND, PLYMOUTH, SUGAR
HILL AND WHITEFIELD**

By and through its attorneys,

GARDNER, FULTON & WAUGH, PLLC

Dated: September 7, 2016

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**SOCIETY FOR THE PROTECTION OF
NEW HAMPSHIRE FORESTS**

By its Attorneys,

BCM Environmental & Land Law, PLLC

Date: September 7, 2016

By: /s/ Amy Manzelli
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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of September 2016, a copy of the foregoing was sent by electronic mail to persons named on the Service List of this docket.

Dated: September 7, 2016

By: /s/ Danielle L. Pacik
Danielle L. Pacik