

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

Docket No. 2015-06

Joint Application of Northern Pass Transmission, LLC
and Public Service Company of New Hampshire
d/b/a Eversource Energy for a Certificate of Site and Facility

MOTION OF THE SOCIETY FOR THE PROTECTION
OF NEW HAMPSHIRE FORESTS TO COMPEL DOCUMENTS
PRODUCED INFORMALLY TO COUNSEL FOR THE PUBLIC

The Society for the Protection of New Hampshire Forests (the “Forest Society”), by and through its attorneys, BCM Environmental & Land Law, PLLC, respectfully requests that the SEC order the Applicants to produce to the Forest Society all documents that fit these criteria: (a) not yet produced or ordered to be produced to the Forest Society; (b) produced by the Applicants to Counsel for the Public (“CFP”); and (c) not included in the privilege log the Applicants provided on September 2, 2016 (collectively referred to as “Informal Production to CFP”). The Forest Society states as follows in support of its request:

1. Repeatedly, and as early as July 13, 2016, the Forest Society requested the Applicants provide the Forest Society all documents not yet produced to the Forest Society and which the Applicants had produced to CFP.
2. On September 9, 2016, the Forest Society filed a Motion to Compel Production of Documents Withheld seeking only documents the Applicants had designated as “highly confidential.” Because the Applicants’ September 19, 2016 objection to the motion read as if the Forest Society was seeking only those documents designated as “highly confidential,” the Forest Society replied on September 23, 2016 to clarify that it seeks all documents (the Informal Production to CFP described above). The Forest Society did not intend its reply to request the

SEC to rule on the issue of whether the Applicants should produce “all” documents to the Forest Society. In its order of October 4, 2016, the SEC Chairman ordered the Applicants to provide the “highly confidential” documents to the Forest Society. The order also addressed “all” documents, denying what had been interpreted as a request.

3. It is through this motion that the Forest Society requests the SEC order the Applicants to produce to the Forest Society the Informal Production to CFP.

4. Despite ongoing communications between the Applicants and the Forest Society, the Forest Society continues to be hindered in its intervention because the Applicants have not produced to the Forest Society the Informal Production to CFP.

5. For a recent example, at the Technical session on October 5, 2016, when a consultant of CFP began to question Julia Frayer regarding a certain document, counsel for CFP announced that the document was one that no one but the Applicants and CFP had because CFP had received it based on an informal request it had made. Upon request of the Forest Society for a copy of the document, the proceedings were paused while copies were made and distributed to the parties. It was then, in the middle of the Technical Session—mere hours before the Forest Society’s opportunity to question the witness and without the Forest Society or its consultant having any meaningful opportunity to study it—that the Forest Society first learned of this particular document.

6. This type of hindrance is completely unnecessary and needlessly diminishes the Forest Society’s due process rights.

7. On October 4, 2016, the Forest Society requested that the Applicants notify the Forest Society whether Applicants have provided to Counsel for the Public any documents that

are not listed in the privilege log and not responsive to formal discovery (i.e., CFP made an informal request). The Forest Society has not received any response.

8. Also on October 4, 2016, the Forest Society asked CFP if it had received any documents that are not listed in the privilege log and not responsive to formal discovery (i.e., CFP made an informal request). CFP confirmed that it has received several such documents.

9. The following parties take the following positions with respect to this request:

a. Concur

New England Power Generators Association
Grafton County Commissioners
Pemigewasset River Local Advisory Committee
Town of Bethlehem
Town of Easton
Town of Franconia
Town of Plymouth
Town of Sugar Hill
Town of Littleton
Town of Ashland Water & Sewer
Town of Woodstock
Town of Deerfield
Town of Bridgewater
Town of New Hampton
Town of Canterbury
Town of Northumberland
Town of Pembroke
City of Concord
Susan Percy for Percy Summer Club
Abutting Property Owners: Pittsburg-Clarksville-Stewartstown

b. Object

Applicants

The remainder of the parties did not respond to a request for their position.

WHEREFORE, the Forest Society respectfully asks that the Committee compel the Applicant to produce the information requested and grant such other and further relief as may be reasonable and just.

Respectfully Submitted,

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

By its Attorneys,

BCM Environmental & Land Law, PLLC



Date: October 6, 2016

By: _____

Amy Manzelli, Esq. (17128)
Jason Reimers, Esq. (17309)
Elizabeth Boepple, Esq. (20218)
3 Maple Street
Concord, NH 03301
(603) 225-2585
manzelli@nhlandlaw.com
reimers@nhlandlaw.com
boepple@nhlandlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this day, October 6, 2016, a copy of the foregoing Motion was sent by electronic mail to persons named on the Service List of this docket.



Amy Manzelli, Esq.