

October 17, 2016

**Via Hand-Delivery**

Ms. Pamela Monroe, Administrator  
New Hampshire Site Evaluation Committee  
21 Fruit Street, Suite 10  
Concord, NH 03301

**Re: 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 to Amend Procedural Schedule**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find attached a Motion to Amend the Procedural Schedule, filed on behalf of the New England Power Generators Association, Inc.

Please contact me if you have any questions in this regard. Thank you for your assistance.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Carol J. Holahan', is written over a horizontal line.

Carol J. Holahan

cc: Service List 2015-06 (electronic mail only)

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

**PARTIALLY ASSENTED-TO MOTION OF THE NEW ENGLAND POWER  
GENERATORS ASSOCIATION, INC.,  
TO AMEND THE PROCEDURAL SCHEDULE**

The New England Power Generators Association, Inc. (NEPGA)<sup>1</sup> respectfully moves for an order to amend the procedural schedule in the above-reference siting proceeding brought by the Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy ("Applicants") before the New Hampshire Site Evaluation Committee ("SEC" or "Committee"). In support hereof, NEPGA states as follows:

1. On October 19, 2015, Applicants filed their Application before the Committee for a certificate of site and facility pursuant to RSA 162-H to construct a 192-mile transmission line to run through New Hampshire from the Canadian border in Pittsburgh to Deerfield. The Committee deemed the Applicants' application complete.
2. By Order dated June 15, 2015, the Committee ordered that the Subcommittee issue a final Order and Decision denying or granting the application by September 30, 2017.
3. By Order dated June 23, 2016, the Committee established a comprehensive procedural schedule covering, among other things, discovery, technical

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<sup>1</sup> The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member.

sessions for Applicants' witnesses, pre-filed testimony, technical sessions for intervenor witnesses, supplemental pre-filed data requests, Applicants responses, technical session of Applicants' witnesses, supplemental pre-filed testimony, prehearing motions and a pre-hearing conference, anticipating hearings on the merits in the spring of 2017.

4. Specifically with respect to NEPGA, the Order provided for a data request discovery deadline of July 8, 2016 and pre-filed testimony deadline of November 15, 2016. Due to negotiations over the terms of the confidentiality agreement, NEPGA and the Applicants mutually agreed to extend the discovery deadline relative to data requests and, consistent with N.H. Admin. Rule Site 202.12(k)(4), attempted to resolve discovery differences informally.

5. Notwithstanding these efforts, On September 6, 2016, NEPGA filed a timely Motion to Compel with respect to five responses to data requests to which the Applicants objected and declined to provide answers. Those data requests related to the production of a fully-executed purchase power agreement (PPA) between Eversource Energy and Hydro-Quebec Renewable Energy and to the updating of certain economic studies, analyses and testimony relative to the competitive electricity market. Importantly, this discovery directly relates to the issues that comprise the basis of NEPGA's limited intervention in this proceeding and will necessarily form the basis of any expert testimony NEPGA offers.

6. On September 22, 2016, the Presiding Officer issued an Order compelling the Applicants to respond to NEPGA's data requests by October 7, 2016. That same day, the Presiding Officer also issued a revised procedural schedule that extended the deadlines for NEPGA and other intervenors to file testimony on issues related to

NEPGA's motion to compel to December 30, 2016. See *Order on NEPGA's Motion to Compel*, September 22, 2016 at pages 5-6, Paragraphs 6,8, 10 and 11 (establishing deadlines for expert testimony, data requests and technical sessions "pursuant to Order on NEPGA's Motion to Compel"). The Procedural Order establishes a bifurcated schedule for NEPGA's intervenor testimony: a November 15, 2016 deadline generally, and a December 30, 2016 deadline for testimony related to the information that is the subject of NEPGA's Motion to Compel. As set forth more fully below NEPGA asserts that the Committee should establish a single date for submitting expert testimony and extend the deadline consistent with the relief requested below.

7. In establishing the December 30, 2016 deadline, the Presiding Officer's Order necessarily assumed the Applicants would produce the PPA and the updated economic information by October 7, 2016, the date compelled by the Presiding Officer in the September 22 Order.

8. Instead of producing the information pursuant to the express directives of the September 22 Order, and without seeking any expedited relief from complying with that order, the Applicants filed a motion seeking rehearing of the September 22 Order and an untimely motion to stay the order until the SEC ruled on their Motion.<sup>2</sup> As justification for their failure to abide by the September 22 Order, the Applicants' Motion asserted that they would provide updated economic analysis at some undisclosed date "in the first quarter of 2017."

9. As described in paragraph 5, the issues on which NEPGA has been granted intervention are limited, but include the effects of the project and the PPA on

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<sup>2</sup> The Motion also sought to suspend NEPGA's further participation in the proceeding. Contemporaneous with the filing of this Motion to Amend, NEPGA has filed an Objection to all of the issues raised in Applicants' Motion for Rehearing.

the competitive wholesale market and the existing generators operating within the region. The PPA and the updated analyses that the Applicants intend to undertake as described in their Motion for Rehearing is precisely the type of information upon which any testimony by NEPGA's expert would rely or comment.

10. In order for NEPGA to participate in a meaningful way in this proceeding, it is critical that its expert has adequate time to analyze the purported benefits of the project as described by the Applicants in their expert's prefiled testimony and supporting analyses. The existing testimony and reports, however, have been rendered largely irrelevant due to a new and substantially changed market designed recently approved by the Federal Energy Regulatory Commission and adopted by ISO-NE. The information upon which the Applicants based their prefiled testimony and economic report not only rely completely on a market design that will soon be outdated, but offer no analyses on purported economic savings under the new zonal demand curves that will be in effect if and when the project comes on line. The September 22 Order also required the Applicants to provide additional analysis using an updated natural gas price forecast.

11. As a result, requiring NEPGA to submit any expert testimony based on the existing materials submitted by Applicants by November 15, 2016, will not only be a waste of time and resources in preparing it, but the testimony will ultimately offer little probative value on the economics of the project or any purported benefit it might bring to the Committee members or other parties reviewing it. Moreover, any limited value that the testimony might have will be further diminished once the new material is available. Instead, NEPGA requests that the Committee establish a single deadline for the

submission of expert testimony following the Applicants' production of the PPA and updated economic analyses that allows reasonable period of time for NEPGA to review the new material prior to submitting expert testimony.

12. A discovery schedule in a proceeding such as this relies upon cooperation between and among the parties. As the docket sheet in this proceeding reflects, more than 20 motions to compel have been filed since the inception of the discovery period. In addition, the technical sessions originally ordered by the Presiding Officer to conclude in September, will now extend at least until the end of October. Moreover, Applicants are seeking rehearing on a discovery order compelling them to provide economic information that goes to the core of the Applicants' claims of purported benefits the project will bring. In addition to prolonging the discovery process by refusing to produce documents resulting in the myriad of motions to compel, the record in this docket demonstrates that Applicants have steadfastly objected to almost every intervenor motion to extend deadlines.

13. Under the current schedule discovery delays have seriously disadvantaged NEPGA and other intervenors. By failing to produce the information in response to NEPGA's data requests, NEPGA was not only forced to file a motion to compel, but they were also deprived of the opportunity to review critical information prior to the Technical Session of the Applicants' key economic witness, Julia Frayer. Without some modification to the existing procedural schedule, NEPGA will be further disadvantaged in the preparation of its expert testimony.

14. The Committee cannot allow the Applicants to have it both ways, i.e., to continue to disadvantage NEPGA and the other intervenors in this proceeding by

refusing to produce the data consistent with the September 22 Order on the one hand and then oppose every request by intervenors to amend the procedural schedule on the other. Nor can the Applicants be permitted to refuse to specify a date certain by which they will produce the economic data and expect NEPGA and the other intervenors to develop expert testimony and develop their case without having the Applicants' analyses as a basis.

15. Based on the ongoing issues with discovery, and the simple fact that the discovery deadlines established in the Presiding Officer's September 22 Order are expressly predicated on the intervenors receiving the information in that order by October 7, 2016, a deadline with which the Applicants have not complied, the remaining discovery deadlines in this proceeding must be modified. The Committee cannot, consistent with due process or any notion of fair play, reasonably hold the other parties to the proceeding to deadlines that are directly dependent upon the information Applicants either refuse to produce or assert that they will produce at some undisclosed point in the future.

16. Moreover, NEPGA and the other intervenors should be permitted to issue data requests relative to the PPA and updated economic analyses and the Applicants should be required to make their economic witness available to answer questions regarding the updated information in a technical session prior to the filing of any intervenor expert testimony.

17. Based on the foregoing, NEPGA requests that the Committee amend the procedural schedule in order to allow NEPGA to participate in the docket in a meaningful way, consistent with the SEC's Order on Intervention, and to analyze fully



the effects of Applicants' proposal and the PPA on the effects on the competitive wholesale electricity market. Accordingly, NEPGA requests that the Committee extend every remaining deadline in this proceeding, including those identified in the September 22 Order, to a date 45 days following the date the Applicants produce all of the economic data they were ordered to produce by the Presiding Officer by October 7, 2016 and establish new deadlines allowing for additional discovery and a technical session.

### **CONCLUSION**

18. NEPGA made a good faith effort to obtain the concurrence of other parties to the docket:

- Bridgewater, Woodstock, Littleton, new Hampton, Deerfield, and Ashland Water and Sewer; Society for the Protection of NH Forests, Abutting property owners (overhead portion) Ashland, Northfield, Canterbury, Allenstown and Concord, Deerfield abutters group; Municipal Group 2 all concur in this Motion.
- The Applicants object to the Motion.
- Counsel for the Public takes no position on the Motion due to his intent to file a separate Motion related to these issues; and
- The Remaining parties to the docket did not respond.

WHEREFORE, NEPGA respectfully requests the Committee

- A. Amend the procedural schedule to establish a single date on which NEPGA's expert testimony is due;



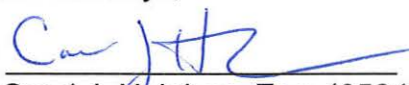
- B. Amend the existing procedural schedule and extend every remaining deadline in this proceeding, including the date on which the Committee will issue its Order and Final Decision, until a date 45 days following the date the Applicants produce all of the economic data they were ordered to produce by the Presiding Officer in the September 22 Order;
- C. Amend the procedural schedule to provide for additional data requests and technical sessions once the Applicants produce all of the economic data they were ordered to produce by the Presiding Officer in the September 22 Order; and
- D. Grant such other and further relief that the Committee may deem just and reasonable.

Respectfully Submitted,

**NEW ENGLAND POWER GENERATORS  
ASSOCIATION, INC.**

By its Attorneys,

Date: October 17, 2016

By:   
Carol J. Holahan, Esq. (6584)  
Bruce F. Anderson, Esq.  
33 Broad Street, 7<sup>th</sup> Floor  
Boston, MA 02019  
(617) 902-2354  
cholahan@nepga.org  
banderson@nepga.org

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, October 17, 2016, a copy of the foregoing Motion to Amend the Procedural Schedule was hand-delivered to the N.H. Site Evaluation

Committee and sent by electronic mail to persons named on the Service List of this docket.

  
Carol J Holahan, Esq.