

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

**JOINT OBJECTION TO
APPLICANTS' MOTIONS FOR EXTENSION OF TIME TO SUPPLEMENT
RESPONSES AND FOR CLARIFICATION AND/OR REHEARING OF ORDER(S)**

The Society for the Protection of New Hampshire Forests (the "Forest Society"), by and through its attorneys, BCM Environmental & Land Law, PLLC, together with Municipal Group 3 South¹ ("MG3S"), consisting of the Towns of Deerfield and Pembroke, and the City of Concord, by and through attorneys for the Towns of Deerfield and Pembroke (Mitchell Municipal Group, P.A.) and attorneys for City of Concord (City Solicitor's Office), respectfully submit this objection to the Applicants' Motions for Extension of Time to Supplement Responses and for Clarification and/or Rehearing of Order(s) (the "Motions").

1. On September 9, 2016, the Forest Society filed a Joint Motion with MG3S to compel Applicants to produce documents listed in a privilege log being withheld on the basis that the Applicants claimed they were "highly confidential" ("Joint Motion").

2. The Committee, in its October 4, 2016 Order on the Joint Motion, compelled Applicants to provide four of the requested documents (the "Documents"). This decision was based in part upon Applicants' argument they had already produced a majority of the requested documents to the Forest Society, MG3S, and those who had confidentiality agreements and that these Documents which had been produced to Counsel for the Public ("CFP") would remain withheld from other intervenors on the basis of confidentiality. Those documents are: (1)

¹ While the town of Canterbury is part of Municipal Group 3 South, it is not a party to this objection.

Renewable Properties, Inc., and Northern Pass Transmission, LLC, Option to Lease Agreement, dated October 14, 2015; (2) Hydro Renewable Energy, Inc., and Northern Pass Transmission LLC Delivery Performance Agreement, dated as of January 22, 2016; (3) Northern Pass Transmission LLC and Hydro Renewable Energy, Inc., Amended and Restated Transmission Service Agreement, dated January 22, 2016; and (4) Section 5.2 of Eversource Energy's Proposal to the Tri-State Clean Energy RFP.

3. The Order compelled Applicants to provide Responses 10 days following issuance of the Order which would have been Friday, October 14, 2016.

4. Applicants did not produce the Documents on October 14, 2016. Instead, Applicants filed a Motion for Extension of Time (“Motion to Extend”), requesting a stay of ten days because they intended to file a Motion for Rehearing on or about October 24, 2016 seeking to not have to produce two of the Documents: (i) the Hydro Renewable Energy, Inc., and Northern Pass Transmissions Service Agreement, dated as of January 22, 2016; and (ii) Section 5.2 of Eversource Energy’s Proposal to the Tri-State Clean Energy RFP.

5. For the reasons previously stated in the Joint Motion, both the Applicants’ Motions should be denied. Namely, there is no basis for withholding the Documents from Intervenors who have signed confidentiality agreements and are relying upon the responses and documents in order to meaningfully participate in these proceedings. The Applicants have yet to provide any legal basis for such withholding, or for claiming that any particular document is “highly confidential.”

6. By refusing to produce responses and information when ordered to do so, Applicants disregard express orders, operate under no authority but their own, and unnecessarily hinder the proceedings.

7. Of note, the Applicants have not produced one of the two documents they were due to produce by October 14, 2016, have not provided any reason why not, and have not responded to an October 19th inquiry about production of the documents, except to say that they are looking into it. Furthermore, now that the Applicants are no longer in the running for the Tri-State Clean Energy RFP, there should be no reason to not produce the document already ordered to be produced.

WHEREFORE, the Forest Society the Forest Society and Municipal Group 3 South respectfully requests that the Committee:

- A. Deny the Applicants' Motions for Extension of Time to Supplement Responses and for Clarification and/or Rehearing of Order(s); and
- B. 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 27, 2016

By: _____

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CITY OF CONCORD



Date: October 27, 2016

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TOWN OF DEERFIELD

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Date: October 27, 2016

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TOWN OF PEMBROKE

By its Attorneys,

MITCHELL MUNICIPAL GROUP, P.A.



Date: October 27, 2016

By: _____ for
Steven M. Whitley, Esq. (17833)

CERTIFICATE OF SERVICE

I hereby certify that on this day, October 27, 2016, a copy of the foregoing Objection was sent by electronic mail to persons named on the Service List of this docket.



Amy Manzelli, Esq.