

December 2, 2016

Via Electronic Mail & Hand Delivery

Pamela Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

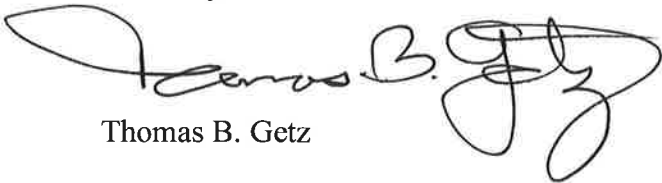
**Re: Site Evaluation Committee Docket No. 2015-06
Joint Application of Northern Pass Transmission LLC and Public Service Company
of New Hampshire d/b/a Eversource Energy (the "Applicants") for a Certificate of
Site and Facility
Motion to Strike Certain Pre-Filed Testimony**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of Applicant's Motion to Strike Certain Pre-Filed Testimony.

Please contact me directly should you have any questions.

Sincerely,



Thomas B. Getz

TBG:slb

cc: SEC Distribution List

Enclosure

**THE 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 CERTIFICATE OF SITE AND FACILITY**

APPLICANTS' MOTION TO STRIKE CERTAIN PRE-FILED TESTIMONY

NOW COME Northern Pass Transmission LLC (“NPT”) and Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH”) (collectively the “Applicants”), by and through their attorneys, McLane Middleton, Professional Association, and respectfully move to strike the pre-filed testimony submitted by persons who are not parties to this proceeding. In support of their Motion, the Applicants state as follows:

1. On November 15, 2016, testimony was filed in this proceeding by or on behalf of the following individuals:

- Philip Bilodeau o/b/o The Society for the Protection of New Hampshire Forests
- Donald and Diane Bilodeau o/b/o The Society for the Protection of New Hampshire Forests
- Dawn S. Bilodeau o/b/o The Society for the Protection of New Hampshire Forests
- Dana Bilodeau o/b/o The Society for the Protection of New Hampshire Forests
- Lore Moran Dodge o/b/o The Society for the Protection of New Hampshire Forests
- Lise Moran o/b/o The Society for the Protection of New Hampshire Forests
- Dean Wilber o/b/o The Society for the Protection of New Hampshire Forests
- Kelly O’Brien Normandeau o/b/o The Society for the Protection of New Hampshire Forests¹
- John Conkling o/b/o The Society for the Protection of New Hampshire Forests

¹ The Applicants understand that Kelly O’Brien Normandeau is a member of the intervenor group Abutting Property Owners: Ashland to Deerfield. Therefore, the Applicants are not moving to strike the pre-filed testimony of Kelly O’Brien Normandeau ; however, the Applicants are treating her pre-filed testimony as it relates to her personal intervention.

- Kris Pastoriza
- Peter Scott o/b/o Sabbow and Co., Inc.
- Peter Perkins

2. The Site Evaluation Committee's ("SEC" or "Committee") rules provide that *parties* may file pre-filed testimony and exhibits in SEC proceedings. See Site 202.22(b)[emphasis supplied]. The Committee's Order on Requests to Amend Procedural Order, dated October 28, 2016, provides that Counsel for the Public and Intervenors may file pre-filed testimony. Site 202.06(a) provides that "All correspondence, pleadings, motions, petitions or other documents filed under these rules shall ... Be typewritten or clearly printed..." As discussed below, neither the rules, nor the most recent procedural schedule contemplate or allow for the filing of pre-filed testimony by non-parties.

A. **Philip Bilodeau, Dawn Bilodeau, Donald and Diane Bilodeau, Dana Bilodeau, Lore Moran Dodge, Lise Moran, Dean Wilber, and John Conkling o/b/o the Society for the Protection of New Hampshire Forests**

3. The following individuals or groups of individuals filed pre-filed testimony on behalf of the Society for the Protection of New Hampshire Forests ("SPNHF"): Philip Bilodeau, Dawn Bilodeau, Donald and Diane Bilodeau, Dana Bilodeau, Lore Moran Dodge, Lise Moran, Dean Wilber, and John Conklin (collectively, the "SPNHF Testimonies"). The Applicants move to strike the SPNHF Testimonies because each piece of testimony is improper. Specifically, the SPNHF Testimonies do not comport with SPNHF's intervention and the individuals are not parties or representatives of SPNHF.

4. In its petition to intervene SPNHF asserted that it has a substantial interest that might be affected by the proceeding because "[i]t owns real property interests for the purpose of protecting some of the state's most important landscapes while promoting the wise use of its renewable natural resources, and those real property interests will be affected by Northern

Pass...” See *Petition to Intervene of the Society for the Protection of New Hampshire Forests*, Docket 2015-06, November 19, 2015. The Committee granted SPNHF intervention after finding that “The Forest Society, as the owner of real estate that will be affected by the Project clearly has an interest in the outcome of these proceedings...” See *Order on Petitions to Intervene*, Docket 2015-06, March 18, 2016. SPNHF’s intervention, therefore, was granted because it has a direct ownership interest in land along the Project route.

5. The Applicants recognize that SPNHF is a party to this proceeding with the right to file pre-filed testimony. However, the Applicants stress that such pre-filed testimony must have some reasonable connection to SPNHF’s basis for intervention. The SPNHF Testimonies, however, do not discuss or relate to properties owned by SPNHF and they do not draw a connection to SPNHF’s interests in this proceeding. Furthermore, the individuals do not appear to be “witnesses” to anything, or offer anything in the nature of expert testimony, relevant to SPNHF’s participation in this proceeding that would justify SPNHF’s introduction of their testimony.

6. Ultimately, the SPNHF Testimonies are not materially different from the pre-filed testimony filed by the dozens of abutting and non-abutting property owners who properly petitioned and were granted intervention here. While these individuals may file public comment with regard to their properties, they are not parties and are not representatives of SPNHF. Because their testimony will not assist the Committee in making its determination, the pre-filed testimony of these individuals should be struck.

B. Kris Pastoriza

7. The Applicants move to strike the pre-filed testimony of Kris Pastoriza because she is not a party to this proceeding. Ms. Pastoriza petitioned the Committee for intervention;

however, her petition was denied. While Ms. Pastoriza has a limited role in this proceeding as Chair of the Easton Conservation Commission, she did not file testimony in that capacity. Ms. Pastoriza may file public comments in this proceeding, but she does not have the right to file testimony. Accordingly, Ms. Pastoriza's pre-filed testimony should be struck.

C. Peter Scott o/b/o Sabbow and Co., Inc.

8. On November 15, 2016 Peter Scott submitted pre-filed testimony on behalf of Sabbow and Co., Inc. ("Sabbow"). Sabbow is not a party in this proceeding, nor does Mr. Scott appear to be an official or agent of the City of Concord. Therefore, the Applicants' request that the Committee strike the pre-filed testimony of Mr. Scott.² The Applicants assert that, in accordance with the SEC rules governing pre-filed testimony, only parties and their experts or consultants may submit pre-filed testimony.

D. Peter Perkins

9. The Applicants have no record of Mr. Perkins intervening in this proceeding, and, therefore, believe that Mr. Perkins' pre-filed testimony is procedurally improper. Accordingly, they ask the Committee to strike his testimony.

10. The following party concurs with the Motion:

a. International Brotherhood of Electrical Workers

11. The following individuals and parties object to the Motion:

- a. Non-Abutting Property Owners: Ashland to Deerfield
- b. Non-Abutting Property Owners: Stark to Bethlehem
- c. Abutting Property Owners: Dalton, Whitefield and Bethlehem
- d. Town of Bridgewater
- e. Town of Woodstock

² Sabbow filed a petition to intervene on November 16, 2016, and the Applicants filed an objection on November 28, 2016. Sabbow filed an unauthorized response on November 30, 2016, repeating its previous arguments. Counsel for the City of Concord now asserts that Mr. Scott is a witness for the City but it is not clear what he is a witness to, or offering an expert opinion about, that is relevant to the City's participation.

- f. Town of Littleton
- g. Town of New Hampton
- h. Town of Pembroke
- i. Town of Deerfield
- j. Ashland Water and Sewer Department
- k. The Town of Holderness
- l. The Town of Bethlehem
- m. Town of Bristol
- n. Town of Easton
- o. Town of Franconia
- p. Town of Northumberland
- q. Town of Plymouth
- r. Town of Sugar Hill
- s. Town of Whitefield
- t. The Society for the Protection of New Hampshire Forests
- u. The Environmental Non-Governmental Organizations
- v. Mark Orzeck
- w. Eric Jones
- x. Abutting Property Owners: Pittsburg, Clarksville and Stewartstown
- y. Bruce Ahern
- z. Susan Schibanoff
- aa. City of Concord³
- bb. Pemigewasset River Local Advisory Committee
- cc. Abutting Property Owners: Dummer, Stark and Northumberland
- dd. Abutting Property Owners: Bethlehem to Plymouth
- ee. Historical Non-Governmental Organizations
- ff. Abutting Property Owners: Ashland to Allenstown
- gg. David Schrier
- hh. Rodrigue and Tammy Beland
- ii. Eric, Elaine and Joshua Olson
- jj. Rodney Moore, Jr.

WHEREFORE, the Applicants respectfully request that this Committee:

- A. Strike the Pre-Filed Testimony of Philip Bilodeau;
- B. Strike the Pre-Filed Testimony of Donald and Diane Bilodeau;
- C. Strike the Pre-Filed Testimony of Dawn S. Bilodeau;
- D. Strike the Pre-Filed Testimony of Dana Bilodeau;
- E. Strike the Pre-Filed Testimony of Lore Moran Dodge;

³ The City of Concord, in objecting to the Motion, says that Mr. Scott is intended to serve as a witness for the City.

- F. Strike the Pre-Filed Testimony of Lise Moran;
- G. Strike the Pre-Filed Testimony of Dean Wilber;
- H. Strike the Pre-Filed Testimony of John Conkling;
- I. Strike the Pre-Filed Testimony of Peter Scott;
- J. Strike the Pre-Filed Testimony of Kris Pastoriza;
- K. Strike the Pre-Filed Testimony of Peter Perkins; and
- L. Grant such further relief as it deems appropriate.

Respectfully submitted,
Northern Pass Transmission LLC and Public
Service Company of New Hampshire d/b/a
Eversource Energy

By Its Attorneys,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: December 2 , 2016

By: 

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Certificate of Service

I hereby certify that on the 2nd day of December, 2016, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon SEC Distribution List.


Thomas B. Getz