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January 17, 2017

Via Electronic Mail

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
Objection to CFP Motion to Extend Deadline**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find the Applicants' Objection to Counsel for the Public's Motion to Extend Deadline.

Please contact me directly should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Adam Dumville".

Adam M. Dumville

AMD:slb

cc: SEC Distribution List

Enclosure

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

SEC DOCKET NO. 2015-06

**JOINT APPLICATION OF NORTHERN PASS TRANSMISSION LLC &
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY
FOR A CERTIFICATE OF SITE AND FACILITY**

**OBJECTION TO COUNSEL FOR THE PUBLIC'S
MOTION TO EXTEND DEADLINE**

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 object to the Motion to Extend Deadline filed by Counsel for the Public (“CFP”) filed on January 6, 2017. As the Applicants discuss below, CFP’s untimely Motion to Extend Deadline undermines the Applicants’ ability to conduct discovery and disrupts the orderly conduct of the proceeding.

1. In his November 15, 2016 Order on Motion of Deerfield Abutters to Extend Deadlines, the Presiding Officer most recently affirmed the December 30, 2016 deadline for Counsel for the Public and Intervenors to file testimony on aesthetics, which testimony had previously been due November 15, 2016. The December 30, 2016 deadline for such testimony was first established in the Order on Requests to Amend Procedural Order issued October 28, 2016.

2. In its Motion to Extend Deadline, CFP asks that it be given until January 20, 2017, for its witness, T. J. Boyle Associates, LLC, (“TJ Boyle”) to file reports substantiating conclusions offered in its December 30, 2016 testimony that 27 scenic

resources would be unreasonably affected by the Project.¹ Pursuant to the procedural schedule, however, the Applicants are required to propound data requests on CFP testimony, five days earlier, i.e., by January 15, 2016, which CFP does not address. Nor does CFP account for the deadline for data responses, which is February 15, 2017.

3. CFP recounts in its Motion that it received detailed digital surface information in mid-September 2016 and formal discovery responses in October 2016, including over 300 new photo simulations, and that technical sessions related to aesthetics concluded on November 8, 2016. CFP then describes TJ Boyle's review of scenic resources and says that its witness did not have sufficient time to memorialize its conclusions. It contends that TJ Boyle could not "fully assess the scenic resources" until the last technical session, at which time it understood how the Applicants' witness prepared the simulations.

4. First, CFP overstates the amount of new information provided on September 29, which addressed only 54 photosimulations (out of a total of 73 photosimulations) that depict the high voltage direct current ("HVDC") portion of the project. Moreover, the revised photosimulations reflected a slight modification in the location of the cross-arms on structures, on the order of three to five feet. Of the 41 alleged scenic resources reviewed by TJ Boyle, only 14 photosimulations were slightly modified on September 29, and they did not include any new locations.

5. Second, CFP requests additional time to memorialize its findings with respect to 27 scenic resources that TJ Boyle reviewed *independently*. CFP asserts that in

¹ CFP took a similar step when it filed a letter on November 15, 2016, informing the Administrator that CFP would not be "filing pre-filed testimony by Siemens, but will be filing at a later date a report by Siemens on their review of the design of the Project's overhead sections." Simply put, that is not how things work. If a party, including CFP, misses a deadline for filing testimony, it cannot say I'm going to call the information something else and file it later.

order to perform its “independent” analysis, “TJ Boyle needed to understand how the Petitioner’s aesthetic expert prepared the simulations in order to fully assess the scenic resources.” This argument mistakenly presumes that TJ Boyle needed photosimulations from the Applicants to conduct its “independent” analysis. To conduct an independent analysis, however, the review must not be influenced or affected by another, and TJ Boyle should have been conducting its independent analysis as soon as they were retained.

6. Third, of the 41 scenic resources identified by TJ Boyle, the Applicants do not agree that all of them are, in fact, scenic resources, and the Applicants did not undertake an analysis of those sites. Therefore, TJ Boyle should not have been waiting on additional information to review and assess those sites.

7. By not notifying the Applicants in advance about the circumstances of the TJ Boyle reports and filing its Motion a week after the deadline, CFP has arrogated to itself a *de facto* extension of a procedural deadline.² This is another example of the procedural asymmetry that attends this proceeding, in which one partial remedy, an extension of time for the Applicants to propound data requests, works against their interests because it impacts other deadlines and disrupts the orderly conduct of the proceeding.

8. CFP also takes the position that it could just submit the support for TJ Boyle’s conclusions as supplemental testimony on March 15, 2017, and that it is basically doing the parties a favor by submitting the reports on January 20, 2017. If this novel approach,

² In a similar vein, CFP did not provide documents that were due on December 30, 2016, as part of its required data responses and did not advise the Applicants in advance that there were any potential problems. The documents relate to the testimony of Ms. O’Donnell regarding historic resources and the Dewberry panel on overhead construction. The O’Donnell documents were provided on evening of Friday, January 6, 2017, but were not labelled or organized in a way that linked the documents to the corresponding data request. The Dewberry documents have not yet been provided. These documents are needed for the Applicants to prepare for technical sessions.

“conclusions now, rationale to follow” were the norm, then CFP would not need to request an extension.

9. Inasmuch as TJ Boyle does not offer a good reason for the late filing of its conclusions relative to the impacts of the Project on the 27 scenic resources, the Applicants ask the Presiding Officer to strike the testimony of Messrs. Buscher, Palmer and Owens pertaining to scenic resources, except for the two resources for which it has memorialized its conclusions.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:


- a. Adopt the proposal discussed above; and
- b. 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 Their Attorneys,
McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: January 17, 2017

By: 

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Certificate of Service

I hereby certify that on the 17th day of January, 2017 the foregoing Objection was electronically served upon the SEC Distribution List.

Aden Dill for:
Thomas B. Getz