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Admitted in: NH

January 17, 2017

By Electronic Mail and First-Class Mail

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

Re: Northern Pass Transmission LLC and Public Service Company of New
Hampshire d/b/a Eversource Energy
Docket No. 2015-06

Dear Ms. Monroe:

I have enclosed the Objection of Dixville Capital, LLC and Balsams Resort Holdings, LLC to the Society for the Protection of New Hampshire Forests' Motion to Compel for filing in the above matter.

Thank you for your attention to this matter. Please contact me if you have any questions.

Very truly yours,



Mark E. Beliveau

MEB/kmd
Enclosure

cc: See attached Distribution List

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This list is provided as a courtesy to parties and may not include the full service list.

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**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 OF DIXVILLE CAPITAL, LLC
AND BALSAMS RESORT HOLDINGS, LLC TO THE SOCIETY FOR THE
PROTECTION OF NEW HAMPSHIRE FORESTS' MOTION TO COMPEL**

Intervenors Dixville Capital, LLC (“Dixville Capital”) and Balsams Resort Holdings, LLC (“BRH”) by and through their undersigned counsel hereby object to The Society for the Protection of New Hampshire Forests’ (the “Forest Society”) Motion to Compel, dated January 6, 2017 (“Motion to Compel”).

The Forest Society seeks discovery into a matter that the Presiding Officer, Martin P. Honigberg, Chairman (“Presiding Officer”) has squarely determined is irrelevant to the Application,¹ specifically, donations or loans by Applicants to “Les Otten or any entity or person associated with the development of the Balsams Resort properties in Coos County,” including Dixville Capital and BRH.² In his September 22, 2016 Order on Motions to Compel (the “Order”), the Presiding Officer declined to compel the Applicants to produce any “documents that evidence, discuss or relate to the Applicants donating or lending money to Les Otten, or any entity or person associated with the development of the Balsams Resort properties in Coos County.”³ The Presiding Officer correctly stated that such “information is simply not relevant or

¹ The “Application” refers to the Joint Application of Northern Pass Transmission LLC and Public Service Company of New Hampshire D/B/A Eversource Energy.

² Order on Motions to Compel, dated Sept. 22, 2016 (the “Order”), at 26.

³ Data Request 19 of Clarksville-Stewartstown Non-Abutters, attached as Exhibit B to Clarksville-Stewartstown Non-Abutters’ Contested Motion to Compel Further Responses to First Set of Data Requests, dated Aug. 15, 2016.

reasonably calculated to lead to the discovery of admissible evidence.”⁴ This is exactly the sort of irrelevant information that the Forest Society tries to compel from Dixville Capital and BRH in its three data requests. Accordingly, Dixville Capital and BRH timely objected to the data requests on the grounds that the requests seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence, among other grounds.

The Forest Society offers no compelling reason why the Presiding Officer should reconsider his prior ruling. Notably, when the Presiding Officer issued the Order, the record in this matter included Mr. Otten’s comments at the public hearing on March 7, 2016, regarding the \$2 million investment in The Balsams Resort,⁵ as well as William J. Quinlan’s statements during a March 14, 2016 public hearing that the Forward New Hampshire Fund has not yet been created, but that “an advance commitment from the ForwardNH Fund . . . was made, in essence, by Eversource and its shareholders . . . to help to make the Balsams redevelopment project in the North Country a reality.”⁶ Properly, the Presiding Officer did not view (confidential) details concerning funding of The Balsams redevelopment as relevant to whether the Project is in the public interest.

Nothing in the Forest Society’s Motion to Compel suggests why such details are relevant or could lead to the discovery of admissible evidence. The Forest Society mostly argues that the requested information would be probative of the bias and credibility of Mr. Otten, but even assuming that were the case, the Forest Society has the information it needs to make its argument: Mr. Otten has, on behalf of Dixville Capital and BRH, publicly supported the Northern Pass for a variety of reasons, including that it supports renewable and sustainable

⁴ Order at 26.

⁵ See Motion to Compel ¶ 3 & Ex. 1 (Tr. at 194:21-23).

⁶ Motion to Compel ¶ 4 & Ex. 2 (Tr. at 48:24-49:1-4).

energy and job creation and overall economic development opportunities, which will, in turn, benefit redevelopment of The Balsams Resort. And, as noted, the fact of the \$2 million investment in The Balsams redevelopment is a matter of public record. The confidential terms and conditions of that investment are not necessary for the Forest Society to make its suggested arguments.

In fact, the terms and conditions of the investment are confidential and protected from disclosure by a confidentiality agreement. Disclosure of this information would place Dixville Capital and BRH at a real competitive disadvantage in the process of obtaining financing for The Balsams redevelopment, while not advancing any public interest. *See* RSA 91-A:5, IV (exempting “confidential, commercial, or financial information” from the Public Right to Know Law). For this reason as well, the Motion to Compel should be denied.⁷

Furthermore, to the extent that the Forest Society seeks information from Mr. Otten, individually, its requests are improper. Mr. Otten is not an Intervenor.

WHEREFORE, Intervenor Dixville Capital, LLC and Balsams Resort Holdings, LLC, respectfully request that the Presiding Officer:

- A. Deny the Forest Society’s Motion to Compel in its entirety;
- B. Or, in the event the Motion to Compel is granted, permit Dixville Capital and BRH an opportunity to move for a protective order and confidential treatment of the information requested by the Forest Society’s Data Requests before the production of such information; and
- C. Grant such further and other relief as may be just and appropriate.

⁷ In the event that the Presiding Officer is inclined to grant the Motion to Compel, Dixville Capital and BRH would move for a protective order and confidential treatment of the requested information.

Respectfully Submitted,

Dixville Capital, LLC and

Balsams Resort Holdings, LLC

By their attorneys,

Pierce Atwood LLP

Dated: January 17, 2017

By: 

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Certificate of Service

I hereby certify that on this 17th day of January, 2017, I caused a copy of the foregoing Objection to be served by electronic mail on persons designated on the Service List of this Docket.



Mark E. Beliveau