

February 23, 2017

**Via Electronic Mail & Hand Delivery**

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

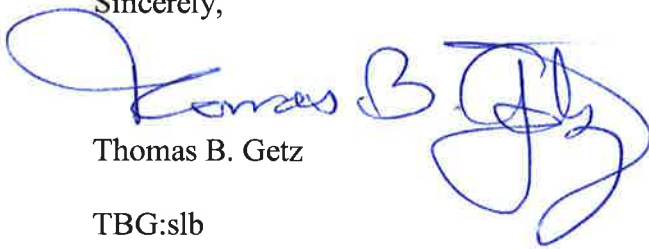
**Re: Site Evaluation Committee Docket No. 2015-06  
Joint Application of Northern Pass Transmission LLC and Public Service Company  
of New Hampshire d/b/a Eversource Energy (the “Applicants”) for a Certificate of  
Site and Facility  
Objection to Town of Easton Motion To Compel**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of an  
Objection to Town of Easton Motion to Compel.

Please contact me directly should you have any questions.

Sincerely,



Thomas B. Getz

TBG: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 TOWN OF EASTON MOTION TO COMPEL**

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 Town of Easton’s (“Easton”) so-called Motion to Compel (“Motion”), which it filed on February 13, 2017. The Motion apparently supplants a document emailed to a number of parties in the proceeding by Ms. Pastoriza on February 5, 2017, which she called a motion to compel the Applicant to provide proof of claimed easement widths. As explained below, the Easton Motion is procedurally defective and substantively without merit.

**I. Background**

1. The Applicants filed an Application for a Certificate of Site and Facility on October 19, 2015, for a 192-mile electric transmission line with associated facilities (“Northern Pass” or “Project”). As part of its Application, pursuant to Site 301.03 (d), the Applicants included, as Appendix 9, their petition to the New Hampshire Department of Transportation (“DOT”) for Aerial Road Crossings, Railroad Crossings, and Underground Installations in State-Maintained Public Highways.

2. On November 13, 2015, the DOT notified the Site Evaluation Committee (“SEC”) that the Application contained sufficient information for DOT’s purposes, as required

by RSA 162-H:7, IV. The SEC accepted the Application pursuant to RSA 162-H:7, VI on December 18, 2015.

3. On May 25, 2016, DOT filed a progress report pursuant to RSA 162-H:7, VI-b. Among other things, DOT stated that the Applicants were “continuing to progress the design of the proposed route and will be submitting updated plans for NHDOT’s review.”

4. On August 15, 2016, the DOT asked for a suspension of the deadline for issuing a final decision on its part of the Application as set forth in RSA 162-H:7, VI-c. On August 29, 2016, the Presiding Officer issued an order that extended the DOT’s deadline until March 1, 2017.

5. On September 22, 2016, the Presiding Officer amended the procedural schedule, requiring, among other things, that the Applicants file supplemental responses addressing the underground portion of the Project by December 15, 2016. The Applicants timely filed in the SEC docket the final design packages that were prepared for DOT as part of DOT’s permitting process, which comprise their supplemental responses to data requests addressing the underground portion of the Project.

## **II. Discussion**

6. Easton’s Motion seeks to compel the Applicants to provide hard copies of six permit packages, totaling 619 pages, that were filed with the DOT regarding the underground portions of the Project, and provided to the parties in the SEC proceeding electronically through the ShareFile site. Easton complains that the drawings in question do not have a usable scale and that the Applicants are obliged to provide copies of all the packages to Easton and any spokesperson that requests them at 24” by 36”. The Town also says that it would be an undue financial and logistical burden for it to have copies made.

7. The Motion is procedurally improper for multiple reasons. First, Easton's Motion does not identify a data request to which it is seeking a response. Second, Site 202.12 (k) provides that motions to compel data responses shall be made within 10 days of receiving a response. Assuming for the sake of argument that its request were valid, it should have been filed by December 27, 2016, i.e., ten days after the information was filed with the DOT and posted in the SEC proceeding. Third, the Presiding Officer has made clear that a party may only seek to compel a response to its own data request. See Order on Motions to Compel (September 22, 2016) at p. 35. Finally, the Easton Motion is not valid because it does not constitute discovery inasmuch as Easton has the information in question but it wants it in a different format.

8. Furthermore, Easton seeks to draw the SEC into a controversy that, to the extent it were an issue at all, would more properly reside with the DOT. Notably, Ms. Pastoriza claimed in her February 5, 2017 email predecessor to the Easton Motion, that there is a "serious problem with the Permit Packages submitted to DOT." The DOT, however, has not indicated to the Applicants that there is any such problem. In fact, the Applicants provided the design information to the DOT in a form acceptable to the DOT and Easton has been provided electronic access to that information.<sup>1</sup> The Applicants, moreover, communicated to the Town's attorney methods for handling the information, either by interpolating distances on a computer screen or by downloading and printing particular pages of interest. The Applicants, however, are not obliged to produce 24" by 36" hard copies of its DOT filings for the Town.

9. Easton "moves to compel the applicant to provide the underground Permit Packages SHEB, WMNF, ROCK, WBR3, NRTN and ROT3," which, respectively, comprise

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<sup>1</sup> The Applicants' attorney mistakenly reported to the Town's attorney that 24" by 36" engineering drawings had not been provided to DOT. Three sets of such drawings were prepared, however; one for DOT in Concord and one each for District 1 and District 3.

114, 149, 35, 203, 95, and 23 pages. In hard copy, each 24” by 36” drawing would cost approximately \$4/page to have copied, for a total in excess of \$2,400 for one set. Portions of the Town of Easton are contained in the SHEB and WMNF packages, covering approximately 50 drawings.<sup>2</sup> The Town has failed to show why it is necessary for the Applicants to reproduce entire hard copy sets of the drawings for the Town or anyone else, and why the Applicants should bear the financial burden of doing so. At the same time, the Town has failed to show that it is unreasonable to expect that it would copy pages of relevant documents it believed were important.

10. The drawings were prepared without a bar scale by PAR Electric, which is not unusual. Nevertheless, PAR Electric, which will be responsible for underground construction on the Project, is preparing revised drawings to reflect comments received from the DOT on the proposed design that will include a bar scale. When the revised versions are submitted to DOT, the Applicants will also post them on ShareFile.

### **III. Conclusion**

11. Easton styles its pleading as a motion to compel and cites to the SEC rule on discovery, but it does not tie its motion to any data request that it has made in this proceeding. Furthermore, the Town has not indicated any way in which the Applicants have not properly responded to a data request. As a result, Easton’s Motion does not comply with, and is not authorized by, SEC rules.

12. Easton’s Motion is a demand for hard copies of engineering drawings provided to the DOT as part of that agency’s permitting process. The Applicants have provided the required underground design information to the DOT in a form acceptable to the agency as part of the

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<sup>2</sup> The Applicants have provided the Town’s attorney a set of hardcopy drawings at 24” by 36” covering the Town of Easton.

DOT's permitting and regulatory authority, and they have made that information available in electronic form to the Town and all parties to the SEC proceeding. Furthermore, the Town has been provided hardcopies of the drawings that relate to the Town. Accordingly, there is no basis for the Town's Motion to the SEC.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:


- a. Deny the Town of Easton's Motion; 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: February 23, 2017

By:   
Thomas B. Getz, Bar No. 923  
Barry Needleman, Bar No. 9446  
Adam Dumville, Bar No. 20715  
11 South Main Street, Suite 500  
Concord, NH 03301  
(603) 226-0400  
barry.needleman@mclane.com  
thomas.getz@mclane.com  
adam.dumville@mclane.com

Certificate of Service

I hereby certify that on the 23<sup>rd</sup> of February, 2017 the foregoing Objection was electronically served upon the SEC Distribution List and the original and one copy will be hand delivered to the NH Site Evaluation Committee.

  
Thomas B. Getz