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Admitted in: NH

February 24, 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

**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 February 14, 2017 (the “Motion to Compel”).

The Forest Society seeks to compel production of a workforce study that relates to The Balsams redevelopment project, asserting that this document bears on the credibility of Leslie Otten’s pre-filed testimony concerning the Application, and further, *presuming* that it may have some relevance to the Application.¹ See Motion to Compel ¶ 9 (“Presumably, the study will illuminate the relationship between the \$2 million loan and the public interest standard pursuant to RSA 162-H:16, IV(e).”). Not only has the Forest Society not met its burden of showing that the requested document is relevant or may lead to the discovery of admissible evidence, the very premise upon which its argument stands is based on mistaken facts.

As an initial matter, the data request at issue requests a copy of the Balsams workforce study upon its finalization. As of the date of this Objection, neither a draft nor a final version of the workforce study has been completed, and therefore have not been reviewed by Mr. Otten.

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.

In any event, the Balsams workforce study, either in draft form or upon its completion, is not relevant to whether the Applicants satisfy the criteria of RSA 162-H:16, IV. Further, the Forest Society does not show how the workforce study is reasonably calculated to lead to the discovery of admissible evidence in this matter. Speculation that the study may bear on the Application is insufficient.

The argument put forth by the Forest Society is based on mistaken facts and concludes with an unsupported presumption. The Motion to Compel, at paragraph 6, states: “Mr. Otten made representations in his pre-filed testimony and at the January 19, 2017 technical session that relied on and/or referenced a study that concluded or led the Balsams to make conclusions about the existing labor force in the North Country.” Contrary to the Forest Society’s contention, Mr. Otten’s pre-filed testimony makes no reference to the Balsams workforce study. Nor did he rely upon the study in his remarks at the January 19, 2017 technical session. Neither allegation could be true because the workforce study did not exist when Mr. Otten’s pre-filed testimony was submitted, and the study does not yet exist.

Similarly, the allegations in paragraph 7 of the Motion to Compel are based on the same mistaken set of facts that the workforce study exists and Mr. Otten relied on the study when making “conclusions about the existing and potential labor force of the North Country.” A study that does not yet exist and, as a result, is not mentioned or even alluded to in Mr. Otten’s pre-filed testimony, regarding subject matter that is not related to the Application, cannot possibly have any bearing on the credibility of Mr. Otten’s pre-filed testimony, and the Forest Society has not demonstrated otherwise.

In its conclusion, the Forest Society, at paragraph 9 of its Motion to Compel, makes the leap and argues, mistakenly, that: “Presumably, the study will illuminate the relationship between the \$2 million loan and the public interest standard pursuant to RSA 162-H:16, IV(e).”

The Forest Society offers no explanation how a yet-to-be completed workforce study for the Balsams redevelopment project relates to the Application and, therefore, must offer its argument in the form of a “presumption.” Relying on a presumption to justify a request is questionable enough, but when combined with inaccurate facts, such request should be denied.

Notably, in its February 21, 2017 objection to the Applicant’s Motion to Compel, the Forest Society objects to producing its own “internal documents and communications” that relate to its opposition to the Application, calling such information irrelevant, and noting the “chill[ing]” effect of the requests.² Indeed, the Forest Society objects to certain data requests on the ground that “they do not even pertain to the Northern Pass proposal.”³ Likewise, the Balsams workforce study does not pertain to the Northern Pass proposal. By the force of the Forest Society’s own reasoning in the aforementioned objection, the Balsams workforce study is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

In conclusion, the Forest Society has failed to demonstrate that the requested document is relevant or reasonably calculated to lead to the discovery of admissible evidence relating to the Application, and therefore, its Motion to Compel should be denied.

WHEREFORE, Intervenors 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; and
- B. Grant such further and other relief as may be just and appropriate.

² Objection of The Society For the Protection of New Hampshire Forests to Applicants’ Motion to Compel Responses to Technical Session Data Requests, dated Feb. 21, 2017, ¶¶ 5, 20 n.3.

³ *Id.* ¶ 15.

Respectfully Submitted,

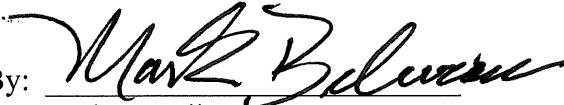
Dixville Capital, LLC and

Balsams Resort Holdings, LLC

By their attorneys,

Pierce Atwood LLP

Dated: February 24, 2017

By: 

Mark E. Beliveau

NH Bar No. 301

One New Hampshire Avenue

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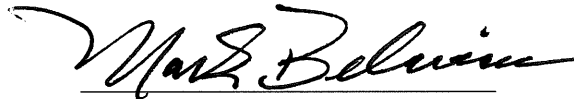
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Certificate of Service

I hereby certify that on this 24th day of February, 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