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March 6, 2017

**Via Electronic Mail & Hand Delivery**

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

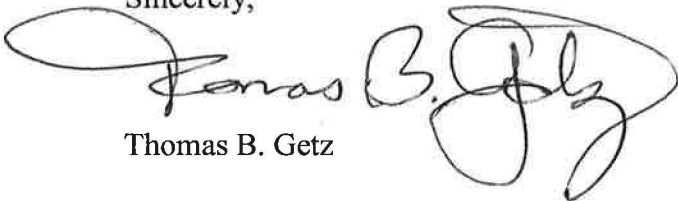
**Re: Site Evaluation Committee Docket No. 2015-06  
Joint Application of Northern Pass Transmission LLC and Public Service Company  
of New Hampshire d/b/a Eversource Energy (the "Applicants") for a Certificate of  
Site and Facility  
Objection to Grafton County Commissioners Pleading**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of an  
Objection to Grafton County Commissioners Pleading.

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 GRAFTON COUNTY COMMISSIONERS PLEADING**

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 pleading filed by the Grafton County Commissioners on February 24, 2017, which they call a Further Response to Motions Regarding Scheduling and Motion to Continue Adjudicatory Hearing (“Pleading”). GCC complains that the underground designs provided to the Department of Transportation (“DOT”) are inadequate for GCC’s purposes and that the adjudicatory hearings should be continued. As explained herein, the Pleading is without merit because, among other things, the Applicants are in full compliance with the requirements of the DOT.<sup>1</sup>

**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.

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<sup>1</sup> The Pleading is procedurally defective as well, inasmuch as GCC filed it without seeking the positions of the other parties in advance. GCC did seek to cure the defect by seeking positions after the fact, which it documented, but did not arguably perfect, until March 1, 2017.

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 December 15, 2016, the Applicants filed revised design packages as part of DOT’s permitting process, which address the underground portion of the Project. The design information was provided to all the parties to the SEC proceeding and it was the subject of a technical session on February 21, 2017.

## **II. Discussion**

6. RSA 162-H:7, IV requires that each application for a Certificate contain sufficient information to satisfy the application requirements of each state agency having jurisdiction, such as the DOT. The Applicants addressed that requirement, as noted above, by including with their SEC Application the petition they filed with the DOT, pursuant to RSA 231:160 *et seq.*, to construct the underground portion of the Project in public highways. RSA 162-H:7, VII-c requires state agencies having permitting authority, such as the DOT, to issue a final decision within 240 days after acceptance, which deadline in this case was extended.

7. As the Applicants noted in their February 27, 2017 Response to Various Procedural Schedule Proposals, “GCC does not appreciate the relationship of the DOT’s regulatory authority over the design of the underground portion of the Project to the [SEC’s] issuance of a Certificate.” RSA 162-H:VI-b contemplates that the DOT will specify additional data requirements necessary to make its decision. The Applicants continue to comply with such DOT requests, as part of an ongoing iterative process, in order to produce a final design that will meet the DOT’s engineering requirements, and that can be incorporated into a Certificate issued by the SEC. Consequently, GCC’s argument that the adjudicative hearings should be continued is not well-founded.

8. GCC’s Pleading further misses the mark as it seeks to subordinate the DOT’s exercise of its permitting authority to the SEC discovery process, which extends to those issues that are not subject to the permitting authority of other state agencies. GCC even goes so far as to resurrect the discredited argument that the Application is not complete, despite the DOT’s finding that the Application contained information sufficient for its purposes.

### **III. Conclusion**

9. The GCC Pleading proceeds from the flawed premise that the Applicants’ underground engineering design should have been in final form when submitted to the DOT, but that is not how the DOT exercises its permitting authority. Instead, the DOT effectively requires that a petitioner refine its design over time and conform it to the agency’s specific requests, which is entirely appropriate in the context of a complex engineering undertaking.

10. Finally, the Presiding Officer issued an Order on Pending Motions (Procedural Schedule) on March 1, 2017, which addressed various proposals from the Applicants, the

Counsel for the Public and other Intervenors. The Order achieves an appropriate balance of competing considerations; GCC presents no satisfactory basis for upsetting that balance.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- a. Reject the GCC Pleading; and
- b. Grant such further relief as it deems appropriate.

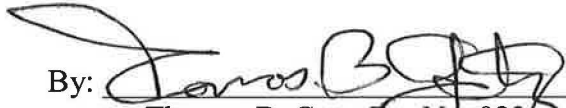
Respectfully submitted,

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

By Their Attorneys,  
McLANE MIDDLETON,  
PROFESSIONAL ASSOCIATION

Dated: March 6, 2017

By:

  
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Certificate of Service

I hereby certify that on the 6<sup>th</sup> day of March, 2017 the foregoing Objection was electronically served upon the SEC Distribution List and the original and one copy will be hand delivered to the Site Evaluation Committee.

  
Thomas B. Getz