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March 29, 2017

Via Electronic Mail & Hand Delivery

Pamela Monroe, Administrator
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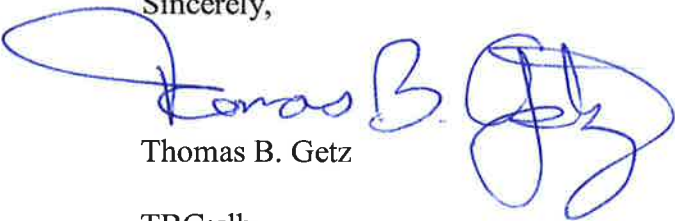
**Re: Site Evaluation Committee Docket No. 2015-06
Joint Application of Northern Pass Transmission LLC and Public Service Company
of New Hampshire d/b/a Eversource Energy (the "Applicants") for a Certificate of
Site and Facility
Motion to Strike Certain Track 1 Testimony**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of a Motion to Strike Certain Track 1 Testimony.

Please contact me directly should you have any questions.

Sincerely,



Thomas B. Getz

TBG:slb

cc: SEC Distribution List

Enclosure

**THE STATE OF NEW HAMPSHIRE
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
FOR CERTIFICATE OF SITE AND FACILITY**

MOTION TO STRIKE CERTAIN TRACK 1 TESTIMONY

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 respectfully move to strike certain testimony filed by various intervenors in this docket. As explained below, the identified filings do not qualify as admissible evidence.

I. BACKGROUND

1. The Applicants filed an Application for a Certificate of Site and Facility with the Site Evaluation Committee (“SEC” or “Committee”) on October 19, 2015, for a 192-mile electric transmission line with associated facilities (the “Project”). The Subcommittee designated for this proceeding accepted the Application pursuant to RSA 162-H:7, VI, on December 18, 2015.

2. On October 28, 2016, the SEC issued an Order on Requests to Amend Procedural Schedule which, among other things, established two distinct deadlines for intervenors to file pre-filed testimony. The Committee set November 15, 2016 as the deadline for the first round of pre-filed testimony, and December 30, 2016 as the deadline for the second round. The Order also set the date for the filing of supplemental pre-filed testimony from all parties as March 15, 2017. On March 1, 2017, the Presiding Officer issued an Order on Pending Motions that further

amended the procedural schedule by, among other things, establishing a phased approach for filing supplemental testimony. That Order set March 24, 2017 as the deadline for filing supplemental testimony for Track 1 topics, and April 17, 2017 as the deadline for filing supplemental testimony on Track 2 topics.¹

3. Approximately 130 pieces of pre-filed testimony were filed in this proceeding. In addition, intervenors filed 11 pieces of supplemental testimony for the Track 1 subjects.

4. The Administrative Procedures Act, RSA Chapter 541-A, provides that “[a]ll testimony of parties and witnesses shall be made under oath or affirmation administered by the presiding officer.” RSA 541-A:33, I. In addition, RSA 541-A:33, II provides that the rules of evidence do not apply in adjudicative proceedings and that “[a]ny oral or documentary evidence may be received; but the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence.” As explained in the recent Antrim Wind proceeding, “[t]he touchstone for admissibility in administrative proceedings is relevance and the avoidance of immaterial or unduly repetitious evidence.” Order on Motions to Strike, Docket 2015-02 (September 19, 2016), p 4.

5. The Administrative Procedures Act does not define pre-filed testimony. Black’s Law Dictionary, however, defines testimony as “evidence that a competent witness under oath or affirmation gives at a trial or in an affidavit or deposition.” Black’s Law Dictionary (10th ed. 2014). Express in this definition is the principle that testimony is being offered as *evidence*. Moreover, Black’s Law Dictionary defines evidence as “something that tends to prove or disprove the existence of an alleged fact.” *Id.* Simply stating a conclusion, expressing a belief, or

¹ Track 1 topics include project route selection, Forward NH Plan, financial capability, system stability, and public health and safety (excluding construction related impacts). Track 2 topics include orderly development, aesthetics, air and water quality, natural environment, economic benefit, and construction related impacts.

noting a concern does not constitute evidence inasmuch as doing so does not prove or disprove a fact or proposition. Furthermore, although the rules of evidence do not apply in SEC proceedings, testimony must include evidence that is relevant and material to the Committee in making its determinations under RSA 162-H:16, IV. Testimony that does not assist the Committee in this regard is inadmissible and, in the case of conclusions, beliefs, or concerns, is more accurately characterized as argument or comment.

6. RSA 162-H:10, III provides: “The site evaluation committee shall consider and weigh all evidence presented at public hearings and shall consider and weigh written information and reports submitted to it by members of the public...” The focus on the presentation of evidence is at the core of this statute. The Legislature intended that the Committee would make its determinations based on the *evidence* presented in formal hearings. While the Committee is obliged to consider and weigh information and reports submitted by members of the public, such information is not subject to cross-examination and it is not accorded the same weight as evidence.

II. DISCUSSION

7. In total, approximately 140 pieces of testimony have been filed by intervenors and Counsel for the Public. The Applicants have identified several categories of such testimony that are inadmissible as evidence: (1) Unauthenticated Video Testimony; (2) Immaterial Direct Testimony; (3) Irrelevant Direct Testimony; and, (4) Improper Supplemental Testimony.² As discussed below, some of the testimony falls under more than one of the above categories.

² Where the Applicants are asking to strike a portion of testimony, the testimony is attached and the relevant portions are highlighted. Where the Applicants are asking to strike testimony in its entirety, the testimony is not attached.

1. Video Testimony

8. Videos were submitted by two groups of intervenors. On November 10, 2016, the Combined Intervenors Clarksville to Stewartstown (“CICS”) delivered a thumb drive to the Applicants. The letter accompanying the thumb drive stated that the video was being submitted as part of the Intervenors’ pre-filed testimony. On December 27, 2016, the Abutting Property Owners Bethlehem to Plymouth (“APOBP”) submitted testimony that included a link to a video.

9. On November 15, 2016, CICS submitted written testimony comprising one section of group testimony and ten sections of individual personal testimony from eight different parties (nine individuals). The group testimony, at p. 2, line 35, says that its purpose is to “present the SEC with material of concern” to the entire group, including, among other things, aesthetics, tourism, historic resources, and public health and safety. They also say, at p. 3, line 13 et seq., that they have submitted the video as their first piece of *evidence* and that it depicts landscapes that will be “scarred” by the Project and “includes short interviews with local people, highlighting the issues of concern.”

10. In a November 29, 2016 e-mail to the Administrator of the Site Evaluation Committee (“SEC” or in this case “Subcommittee”), Mr. Thompson, the CICS spokesperson, said that the video, which was submitted as pre-filed testimony, “is intended to act as a guided-tour of Northern Pass’s proposed route” and “to impress the importance of tourism in the North Country.” See Attachment A.

11. The APOBP testimony includes a short summary of their video, which APOBP says “pertains to the underground portion of the route through Franconia and Easton, showing the proximity of our homes and businesses to the roads where excavation, including blasting and drilling would occur.” The video focuses on a side-by-side comparison to I-93 as an alternative

route and interstates elsewhere. As discussed further below, alternative routes have been determined to be irrelevant.

12. SEC rule, Site 202.22 (b), provides that parties may submit pre-filed testimony and exhibits in proceedings. In addition, Site 202.06 (a) provides that: “All correspondence, pleadings, motions, petitions or other documents filed under these rules shall ... Be typewritten or clearly printed...”

13. The pre-filing of written testimony in administrative proceedings is grounded in principles of administrative efficiency and is intended to promote the orderly conduct of proceedings. Pre-filing saves time normally required for the direct examination of witnesses and experts during hearings, and obviates depositions and other burdensome forms of discovery. During the hearing, the witness is sworn, adopts the testimony, and is cross-examined on it.

14. CICS has referred to the video both as testimony and evidence, and the video does have two components, i.e., the statements of certain individuals and the visual depiction of segments of the route. As explained below, the statements are not testimony and the visual depiction of the route is not admissible evidence.

15. The CICS video does not constitute the testimony of a witness as to any facts or the opinion of an expert. Rather, in Mr. Thompson’s words, it reflects “unsolicited conversations” among a variety of individuals, three of whom are intervenors in this proceeding and seven of whom are not.

16. At the same time, the CICS video does not constitute admissible evidence. While it appears to be offered as proof that the Project will have negative effects on aesthetics, and by extension on tourism, it is not authenticated in any way and it does not meet any of the requirements established by the SEC rules with respect to visual impact analyses. Among other

things, because the video appears to be taken from a drone it does not represent the perspective of a typical viewer.

17. Video testimony can be classified in two ways, neither of which applies here. In one case, the witness is elsewhere, appears by video, and participates in a hearing as if they were otherwise present. In the other case, the witness has been recorded previously but is unavailable, often as a result of illness or death. The parties have offered something else entirely.

18. It may be the case that the parties have not closely considered the different labels they have attached to the video. Thus, they may not really intend that the video be treated as testimony, but as evidence. Regardless, the video does not qualify as either evidence or testimony.

19. The oral component of the CICS video is not testimony but consists of public statements or comments, which should be given no evidentiary weight in this proceeding. The visual component of the video, moreover, contains pictures without any evidentiary basis to make them admissible. Together they are simply an emotional appeal to deny a Certificate for the Project and therefore should be disallowed as part of the formal record in an adjudicative proceeding.

20. As for the APOBP video, in addition to infirmities similar to the CICS video, it appears to be essentially an argument for adopting an alternative route. As discussed in more detail below, testimony advocating for an alternative route is irrelevant and, therefore, inadmissible as evidence.

2. Immaterial or Non-Testimony

21. Labelling a document as testimony is not sufficient to make it testimony. A good deal of the so-called testimony states conclusions, expresses beliefs, or notes concerns about the

Project, but does not offer any evidence. Such statements would be categorized as public comment if made by a non-party. Coming from parties, they are more in the nature of argument, which should be reserved for closing statements or briefs as the Subcommittee determines appropriate.

22. There are practical implications associated with the cross examination of a witness who merely states conclusions, expresses beliefs, or notes concerns. Where a witness provides no factual support for their position, cross-examination would tend to be argumentative because the witness either holds the belief or not. Thus, there is no probative value to the testimony, and cross-examination will not assist the Committee in making its determinations.

23. The following pre-filed testimony consists solely of conclusions, beliefs, or concerns that do not rise to the level of admissible evidence but should be treated as argument or comment.

- Individual Personal Pre-Filed Testimony of Bradley J. Thompson, November 15, 2016
- Pre-Filed Testimony of Tim and Brigitte White, November 13, 2016
- Pre-Filed Testimony of Cark Lakes, November 15, 2016
- Pre-Filed Testimony of Mark and Susan Orzeck, November 15, 2016
- Pre-Filed Testimony of Phil and Joan Bilodeau, November 15, 2016

24. The Supplemental Testimony of Linda Lauer on behalf of the Grafton County Commissioners is a related example in this regard insofar as it reiterates arguments made in the motion they filed on February 24, 2017, asking to continue the adjudicative hearings. Ms. Lauer's Supplemental Testimony is further discussed below insofar as it includes information that was previously available.

3. Irrelevant Testimony Regarding Alternative Routes

25. A number of intervenors have filed testimony based on the availability of alternative routes for the siting of the Project. The Committee previously ruled that the feasibility of alternative routes for the Project is not relevant to this proceeding.

26. The issue concerning the relevance of alternative routes arose during the discovery phase of this proceeding. In response to a number of data requests seeking information about the feasibility of alternative routes (with emphasis on the I-93 corridor) the Applicants objected on the grounds that they sought information that is not relevant to the proceeding. The parties moved to compel but the Presiding Officer denied the motions, holding that “[t]he requests seek information that does not pertain to the proposed route. The requested information is not relevant nor is it likely to lead to the discovery of admissible evidence.” Order on Motions to Compel, Docket 2015-06 (September 22, 2016), p. 40.

27. The following pre-filed testimony concerns the feasibility of alternative routes not before the Committee.

- Pre-Filed Testimony of George Sansoucy³
- Pre-Filed Testimony of Sharon A. Penney, November 15, 2016⁴
- Pre-Filed Testimony of Will Abbott, November 15, 2016⁵

4. Supplemental Testimony

28. Supplemental testimony is not defined or discussed in the SEC rules but it has been discussed in prior dockets. In the recently concluded Antrim Wind proceeding, Docket No.

³ The Applicants move to strike this testimony only to the extent it offers testimony about alternatives (See Page 10, Line 16 through Page 14, Line 21).

⁴ The Applicants move to strike this testimony only to the extent it offers testimony about alternatives (See Page 1, Lines 13 through Page 2, Line 18).

⁵ The Applicants move to strike this testimony only to the extent it offers testimony about alternatives (See Page 11, Lines 1-8).

2015-02, the Committee considered motions to strike certain pieces of supplemental pre-filed testimony.⁶ The Committee concluded that supplemental testimony must supplement previously introduced testimony and cannot provide new information that was available to the parties at the time of the original pre-filed testimony. *See Order on Motions to Strike, Docket 2015-02* (September 19, 2016), ps. 2-3. In its ruling, the Committee found that “[s]upplemental testimony usually addresses matters that were not known before the filing of direct testimony or to address evidence, issues and arguments that arise during the discovery phase of the matter.” *Id.*, at 3-4. In other words, testimony that is filed late cannot be cured by labeling it supplemental testimony.

29. The Committee discussed supplemental testimony in this docket within the context of the updated testimony and report of Julia Frayer. In the October 28, 2016 Order on Requests to Amend Procedural Schedule, the Presiding Officer ordered that “[t]estimony based on LEI’s final report ... may be filed as supplemental testimony. Any such supplemental testimony must state specifically why each opinion offered could not have been provided by the end of 2016.” Order on Requests to Amend Procedural Schedule, Docket No. 2015-06 (October 28, 2016), p. 4. This ruling is in line with the treatment of supplemental pre-filed testimony articulated in the Antrim docket.

30. It is critical to note that allowing testimony now, under the guise of supplemental testimony, that could have and should have been filed earlier as part of the Intervenor’s original pre-filed testimony, deprives the Applicants of their due process right to conduct discovery on that testimony, given the approved procedural schedule. The consequences

⁶ *See* Transcript of Adjudicative Hearing Day 1, Morning Session, Docket No. 2015-02 (September 13, 2016), pp. 29-32. Counsel to the Committee also explained that supplemental testimony is limited to relevant information as governed by RSA 541-A:33, II. *See Adjudicatory Hearing Day 1, Morning Sessions, Tr.* p. 31, Docket 2015-02 (September 13, 2016). That is, admissible evidence includes relevant evidence that is not immaterial and not unduly repetitious. *See* RSA 541-A:33, II.

of the intervenors' delay should fall on the intervenors; not on the Applicants. Hence, supplemental testimony must address information that was not available at the time the original pre-filed testimony was filed, and it must be relevant, material, not unduly repetitious. The Applicants discuss below supplemental testimony that does not meet this standard.

a. Supplemental Pre-Filed Testimony of Stephan T. Nix

31. Mr. Nix discusses information that was available at the time of his original Pre-Filed Testimony. Specifically, he addresses the plans that the Applicants submitted to the New Hampshire Department of Transportation ("NHDOT") regarding the underground design of the Project. On page two of his Supplemental Testimony Mr. Nix testifies that he "[r]eviewed the plans located at the New Hampshire Site Evaluation Committee ("SEC") website dated 12/16/16..." The referenced plans are the design packages prepared for the NHDOT for the underground portions of the Project. Mr. Nix goes on to argue that the underground design plans "[d]o not meet the minimum requirements of law given the representations made by the Applicant that the plans are final design plans [sic] the construction of the UGTL in the public right of way." *Id.*

32. In his September 22, 2016 Order on Requests to Amend Procedural Order, the Presiding Officer extended the deadline for the filing of pre-filed testimony regarding the underground portion of the Project until December 30, 2016. He modified the procedural schedule in response to a request by Counsel for the Public to extend the deadline for "testimony relating to the underground portions of the line ... until after the Applicants file an amendment to the Application." Counsel for the Public's Motion to Compel Further Responses to Expert-Assisted Data Requests and for Other Relief, Docket 2015-06, p. 7 (August 15, 2016). The

September 22, 2016 Order specifically contemplated that the Applicants would file additional materials regarding the underground design of the Project.

33. The Supplemental Testimony of Mr. Nix concerns information the Applicants provided to NHDOT and the Committee on December 16, 2016. Neither Mr. Nix nor the group that retained him requested an extension to the schedule set out in the Committee's October 28, 2016 Order On Requests to Amend Procedural Order. Given that Mr. Nix's Supplemental Testimony is entirely focused on information that was available at the time he filed his prior Pre-Filed Testimony, the Applicants request that his Supplemental Testimony be struck in its entirety.

b. Supplemental Pre-Filed Testimony of F. Maureen Quinn

34. In her Supplemental Testimony, F. Maureen Quinn states that she has "[i]dentified and wish[es] to include ... several reports in the professional scientific literature." Supplemental Testimony of F. Maureen Quinn at 1. However, the reports or articles that she attaches to her Supplemental Testimony were published between 2000 and 2015, and therefore were available at the time she filed her original Pre-Filed Testimony. Furthermore, none of the materials were discussed during technical sessions. Therefore, there is no reason why Ms. Quinn could not have included this information in her original Pre-Filed Testimony or why she should be allowed to do so now. The Applicants request that her testimony be struck in its entirety.

c. Supplemental Pre-Filed Testimony of George E. Sansoucy

35. The Supplemental Testimony of George E. Sansoucy ostensibly relates to route selection and financial capability. Under the heading of route selection, however, Mr. Sansoucy creates a tangle of issues. Among other things, he mentions at p. 3 the results of the ISO-NE Forward Capacity Auction #11, while at p. 5 he talks about the results of the Tri-State Clean

Energy RFP. On page 10 of his Supplemental Testimony, Mr. Sansoucy “restates [his] thinking and recommendation regarding Hydro Quebec Phases I and II.” And, on page 12, he reaffirms his position that the I-93 corridor is a better alternative to the proposed route. In addition, on page 13 he questions the New Hampshire Public Utilities Commission’s (“PUC”) decision in Order No. 25,953, which was issued on October 14, 2016. Finally, on page 15, under the heading of financial feasibility, Mr. Sansoucy offers an opinion based on “reading over Mr. Auseré’s Pre-Filed Testimony again.”

36. It is not the purpose of supplemental testimony to buttress prior testimony with information that was available at the time the prior testimony was filed, nor is it the purpose of supplemental testimony to restate, reaffirm, repeat, or otherwise revisit prior positions. There must be something new about the supplemental testimony to justify its admission. To the contrary, Mr. Sansoucy, among other things, acknowledges that the results of the Tri-State Clean Energy RFP were available to him at the time of the filing of his prior testimony and, obviously, there is nothing in his Supplemental Testimony about Quebec Phases I and II, or I-93, that he could not have provided before. The same goes for his interpretation of the PUC’s Order and his re-reading of the Transmission Service Agreement.

37. The Applicants ask that Mr. Sansoucy’s Supplemental Testimony be struck in its entirety for a combination of reasons. First, there is no reason why Mr. Sansoucy could not have included the substance of this testimony in his prior Pre-Filed Testimony. Furthermore, as discussed above, testimony on alternatives is not relevant to this proceeding and therefore his extended discursion under the heading of route selection is not relevant because it is primarily focused on alternatives and his corresponding belief that the Project should not be built or it should be built elsewhere.

d. Supplemental Pre-Filed Testimony of Carl Martland

38. Mr. Martland says that he is submitting supplemental testimony because “[he] would like to respond in more depth to” a number of questions asked by counsel for the Applicants as well as Counsel for the Public “that [he] was unable to answer completely” during the January 27, 2017 technical session. Supplemental Testimony of Carl Martland, p. 2. Such a use of supplemental testimony is improper. Technical sessions give parties the opportunity to better understand a witness’s position. They are not a free pass inviting the witness to file supplemental testimony with any additional thoughts that may occur.

39. At the time of the technical session, Mr. Martland responded to the questions from the Applicants and Counsel for the Public, who had the opportunity to issue data requests to Mr. Martland during the technical sessions, but they did not. Nevertheless, Mr. Martland has, on his own initiative, undertaken to provide additional information that should have been included in his original Pre-Filed Testimony.

40. On page 2 of his Supplemental Testimony, Mr. Martland lists five questions that were directed to him during the technical session held on January 27, 2017. He says that at the time of the technical session he was unable to answer completely for various reasons. For example, in regard to question one Mr. Martland states that he was “[u]nable to respond because [he] had not yet reviewed [Terry DeWan’s] testimony.” *Id.* The entirety of Mr. Martland’s Supplemental Testimony should be struck because it is essentially late-filed direct testimony that should have been filed last year.

e. Supplemental Pre-Filed Testimony of Linda Lauer

41. In her Supplemental Testimony, Linda Lauer complains that she does not yet “have the results of the New Hampshire Department of Transportation review of the projected

route.” Supplemental Pre-Filed Testimony of Linda Lauer at 1. Ms. Lauer goes on to explain that she wishes to supplement her prior Pre-Filed Testimony with the inclusion of a report titled “Lincoln – Woodstock Workforce Survey & Program Report” that was published on August 8, 2016, and which was available to Ms. Lauer at the time she submitted her prior Pre-Filed Testimony. The Applicants ask that Ms. Lauer’s testimony be struck in its entirety because it comprises, first, a repackaging of the GCC’s motion to continue the hearings and, second, a report that was available at the time of the original testimony.

f. Supplemental Testimony of Will Abbott

42. Mr. Abbott says that the purpose of his Supplemental Testimony is “[t]o present recently discovered information about the Transmission Service Agreement (TSA) ... and to dispute the Applicants’ statements that full burial would cost an additional \$1 billion.” Supplemental Testimony of Will Abbott. The Applicants ask to strike the testimony as it relates to the estimated costs of burial because the testimony is based on information that was available to Mr. Abbott at the time he filed his prior Pre-Filed Testimony. The Applicants have attached the narrative section of his testimony with the relevant portions highlighted as Attachment B.

5. Positions of the Parties

43. The following parties object to the motion: Group 1 North, Pittsburg, Clarksville and Stewartstown; Deerfield Abutters; Municipal Group 3 South; Grafton County Commissioners; Towns of New Hampton, Littleton, Pembroke, Deerfield, and Ashland Water & Sewer; McKenna’s Purchase; Stark to Bethlehem Non-Abutters; Abutting Property Owners, Bethlehem to Plymouth; New England Power Generators Association; Dummer, Stark and Northumberland; Pemigewasset River Local Advisory Committee; Society for the Protection of New Hampshire Forests; Whitefield, Dalton, Bethlehem Abutters; Southern Non-Abutters;

Environmental NGOs; Municipal Group 2; Towns of Bethlehem, Bristol, Easton, Franconia, Northumberland, Plymouth, Sugar Hill, and Whitefield; and, Counsel for the Public.

III. CONCLUSION

44. Parties have a right to file testimony. However, filings that do not constitute testimony or provide admissible evidence in the first instance, testimony that does not provide the Committee with relevant or material information, and late-filed testimony characterized as supplemental testimony, all jeopardize the orderly and efficient conduct of the proceedings. In moving to strike such testimony, the Applicants seek to preserve their due process rights. Moreover, in moving to treat certain testimony as argument or comment, the conclusions, beliefs, or concerns submitted as testimony are preserved for the record, while avoiding unnecessary delay.

WHEREFORE, the Applicants respectfully request that this Committee:

- A. Strike or disallow the videos as testimony or evidence;
- B. Strike the immaterial testimony or, alternatively, treat it as argument or comment;
- C. Strike the irrelevant testimony;
- D. Strike the improper supplemental testimony; and
- E. 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 Its Attorneys,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: March 29, 2017

By: 

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Certificate of Service

I hereby certify that on the 29th day of March, 2017, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon SEC Distribution List.


Thomas B. Getz

From: [Brad Thompson](#)
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Subject: New Hampshire Site Evaluation Committee Docket No. 2015-06 -Pre-Filed Video Testimony
Date: Tuesday, November 29, 2016 9:45:14 PM
Attachments: SEC-PFTVideoExplanation.pdf

November 30, 2016

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

RE: New Hampshire Site Evaluation Committee Docket No. 2015-06
Pre-Filed Video Testimony for Abutters' and Non-Abutters' Group I North of Pittsburg,
Clarksville, Stewartstown

To Pamela Monroe
Cc: Distribution List

The video that our Intervenor's Group I, Pittsburg, Clarksville, and Stewartstown, has submitted as pre-filed testimony, was produced with two primary themes in mind.

First, it is intended to act as a guided-tour of Northern Pass's proposed route, entering the United States at Halls Stream, Pittsburg, and leaving Stewartstown to the east of Sugar Hill, and entering the Wagner Woodlot in Dixville. Secondly, we want to impress the importance of tourism in the North Country and the critical importance to the present and future economy of the region.

During the video, there are several unsolicited conversations among the long-time residents and local business people, including myself, Brad Thompson, Dr. Marty Kaufman, Don and Diane Bilodeau, Bette Guerin, Jason Balint, Rod McAllaster, John Harrigan, Cindy Lou Amey, and John Amey.

This 21-minute video focuses on the 16 plus miles of overhead and underground portions of the route from the Canadian border to the Dixville town line. Overhead routes include three miles from the Canadian border to the west banks of the Connecticut River, then east of the Connecticut River to Wiswell Road in Clarksville, for a total of 3 and a half miles. The final overhead four miles runs from Bear Rock Road to the Dixville town line.

Additionally, there is a half-mile underground burial at the Connecticut River on Route 3, and 6 and a half miles of burial starting at Wiswell Road in Clarksville, onto Route 145 for one-quarter mile, then up Old County Road into Stewartstown, crossing Creampoke Road, then running the length of North Hill Road onto Bear Rock Road, to transition station #4.

Sincerely,

Bradley J. Thompson
Spokesperson, Group I North, Pittsburg, Clarksville, and Stewartstown

Attachment A

599 Noyes Road
Stewartstown, NH 03576

THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

DOCKET NO. 2015-06

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

SUPPLEMENTAL
PRE-FILED DIRECT TESTIMONY OF WILL ABBOTT

ON BEHALF OF THE SOCIETY FOR THE PROTECTION OF
NEW HAMPSHIRE FORESTS

MARCH 24, 2017

1 **Q: Please state your name and business address.**

2 A. Will Abbott, 54 Portsmouth Street, Concord, New Hampshire 03301.

3 **Q: What is the name of your organization?**

4 A. Society for the Protection of New Hampshire Forests ("Forest Society").

5 **Q: What is your current position at The Protection of New Hampshire Forests?**

6 A: Vice President for Policy and Reservation Stewardship.

7 **Q: What is the purpose of your supplemental testimony?**

8 A. The purpose of my supplemental testimony is to present recently discovered
9 information about the Transmission Services Agreement (TSA) filed by the Applicants as part of
10 their Application (Vol XIV, App. 16) and to dispute the Applicants' statements that full burial
11 would cost an additional \$1 billion.

12 **Q: What information regarding Hydro Quebec's (HQ) intentions to pay for the**
13 **cost of constructing the proposed Northern Pass has the Forest Society recently learned,**
14 **and what has the Forest Society done in response?**

15 A: It had come to our attention from recent press reports and from re-reading the
16 TSA that the financial arrangement between Northern Pass Transmission, LLC (NPT) and HQ
17 articulated in the TSA appeared to be deficient for two separate reasons. See, e.g., Attachment 1.
18 First, the TSA itself has an end date (referred to formally as the "Approval Deadline") of
19 February 14, 2017. The TSA appeared to terminate unless the two parties to the TSA mutually
20 agreed in writing to extend this date. The Forest Society is not aware of any document filed with
21 the Federal Energy Regulatory Commission (FERC) indicating that NPT and HQ have agreed in
22 writing to extend the deadline.

23 In a letter dated March 14, 2017, the Forest Society formally asked U.S. Senator Jeanne

1 Shaheen to ask FERC the following: (1) explain the status of the TSA between NPT and HQ;
2 and (2) advise whether the parties have filed a written agreement to extend the Approval
3 Deadline in the TSA. Attachment 2. After the Forest Society sent the letter to Senator Shaheen,
4 NPT and HQ released a document that appears to extend the TSA to December 31, 2020.
5 Attachment 3. The apparent extension anticipates changes to the TSA that may require FERC
6 approval. Three days after the Forest Society's letter to Senator Shaheen, NPT responded to the
7 Forest Society's letter by writing to Senator Shaheen insisting that it "is completely unnecessary"
8 for her to ask FERC about the Forest Society's questions. Attachment 4.

9 **Q: What is the second deficiency in the TSA?**

10 A: The TSA submitted by the Applicants application is not for the project that the
11 Applicants are asking the SEC to approve.

12 **Q: What are the differences between the project proposed in the Application to**
13 **the SEC and the project described in the TSA?**

14 A. One is the fact that the TSA, as amended in 2013 and approved by FERC in early
15 2014, is presented as part of the SEC Application to substantiate the claim that the Applicants
16 have the financial capacity to build and maintain the project. Yet the TSA is for an earlier
17 iteration of the project, one which was 187 linear miles, which included only 8 linear miles of
18 burial, which is projected to cost \$1.4 billion and which will ship 1200 MW of electricity. The
19 application to SEC is for a 192 mile project that costs \$1.66 billion and that will ship up to 1090
20 MW of electricity, and includes 60 miles of burial. Based on the public record to date, there is
21 no evidence that HQ has agreed to the project as proposed to the SEC.

22 **Q: What is your understanding of who would pay for the costs of constructing**
23 **the proposed project?**

1 A: I understand the TSA to provide NPT an annual payment over the contract period
2 that would accomplish three things. First, it would require HQ to reimburse NPT for the
3 construction costs of the project. Second, it would require HQ to reimburse NPT for all
4 operating costs of the line over the 40-year contract period, including taxes (local, state and
5 federal), principal and interest for all borrowings to finance the equity share of the project
6 invested by NPT and any rent due the titleholder of existing rights of way used to site the
7 transmission facility. And third, the TSA provides for HQ to provide NPT annually a return on
8 equity payment determined to be at a rate of 12.56% (in year one) of the equity interest NPT
9 would hold in the project (50% of the total project cost).

10 **Q: Given that the TSA does not reflect the project as proposed and that it**
11 **remains unknown who would pay for the costs of construction, what is your opinion as to**
12 **whether the Applicants have demonstrated “adequate financial capacity to construct and**
13 **operate the project?”**

14 A: It would appear that the Applicants have failed to demonstrate that they have in
15 hand the financial capacity to construct and operate the project for which they are asking the
16 SEC to issue a certificate.

17 **Q: Does the Applicants’ estimate of an additional \$1 billion cost to completely**
18 **bury the Northern Pass seem accurate to you?**

19 A: From data that the Applicants have provided to potentially impacted
20 municipalities as to the year one value of the infrastructure they propose to build, it appears that
21 the actual cost of burial per mile of the HVDC line through Sugar Hill is approximately \$9.4
22 million. HVDC burial costs per mile in other communities where the line is buried are
23 approximately \$9.4 million. Attachment 5 (letter to Sugar Hill). It is not clear what the

1 Applicants are including in the projected value of the line in Sugar Hill, where the proposed
2 project would be buried, and each of the other impacted towns. What is clear is that the
3 Applicants' own data suggests there is a significant disconnect between the alleged \$1 billion in
4 additional cost and the values claimed for the installed infrastructure in each of the 31
5 municipalities.

6 **Q: In your opinion, is full burial practicable?**

7 **A:** Yes. For the same reason it is practicable in New York, Vermont, Maine and for
8 60 miles in New Hampshire.