

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 a Certificate of Site and Facility

**JOINT PRE-HEARING MOTION OF THE SOCIETY FOR THE PROTECTION OF  
NEW HAMPSHIRE FORESTS AND THE GRAFTON COUNTY COMMISSIONERS TO  
CLARIFY THAT ALL TRACKS INCLUDE EVIDENCE  
RELEVANT TO “PUBLIC INTEREST”**

The Society for the Protection of New Hampshire Forests (the “Forest Society”), by and through its attorneys, BCM Environmental & Land Law, PLLC, and the Grafton County Commissioners, by and through the Grafton County Attorney Lara L. Saffo, as spokesperson, submit this Motion to Clarify, respectfully requesting the Site Evaluation Committee (the “SEC”) issue an order clarifying that evidence relevant to the “public interest” standard of RSA 162-H:16, IV(e) and Site 301.16 may be introduced in any “track” of the hearing. In support, the Forest Society states as follows:

1. On October 19, 2015, the Northern Pass Transmission, LLC and Public Service Company of New Hampshire (collectively, the “Applicants”) submitted an Application to the SEC for a Certificate of Site and Facility (the “Application”) to construct a 192-mile transmission line (the “Project”). As proposed, the Project would have a capacity rating of up to 1,090 MW, and would run through New Hampshire from the Canadian border in Pittsburg to Deerfield.

2. Per the March 1, 2017, Order adjusting the procedural schedule in this matter, the hearings are divided into two tracks of topics. Order on Pending Motions (Procedural Schedule), Docket No. 2015-06, at 7 (Mar. 1, 2017). “Track 1 topics include project route selection, Forward NH Plan, financial capability, system stability, and public health and safety (excluding

construction related impacts).” *Id.* at n. 2. “Track 2 topics include orderly development, aesthetics, air and water quality, natural environment, economic benefit, and construction related impacts.” *Id.* at n. 3. Although not part of the official procedural schedule, it is generally understood that there is a “track 3,” which shall include all witnesses other than the Applicants’ witnesses and address both track 1 and 2 topics.

3. Track 1, more or less, lists topics that fall within the scope of RSA 162-H:16, IV(a). Track 2, more or less, concerns topics listed in RSA 162-H:16, IV, (b)-(c).

4. The “public interest” is an independent standard that the SEC must also consider in its analysis, but it is not explicitly included in any of these tracks per any order, memorandum, or report of the SEC. The public interest standard is relevant to all tracks.

5. RSA 162-H:16, IV(e) requires that the SEC find that “[i]n order to issue a certificate, the committee shall find that: . . . [i]ssuance of a certificate will serve the public interest.” Site 301.16, “Criteria Relative to a Finding of Public Interest,” provides the following criteria that the SEC “shall consider” in determining whether a proposed energy facility will serve the public interest:

- (a) The welfare of the population;
- (b) Private property;
- (c) The location and growth of industry;
- (d) The overall economic growth of the state;
- (e) The environment of the state;
- (f) Historic sites;
- (g) Aesthetics;
- (h) Air and water quality;
- (i) The use of natural resources; and
- (j) Public health and safety.

6. Many of these factors repeat or mirror considerations present within subsections (a), (b), and (c) of RSA 162-H:16, IV.

7. This is not unintentionally redundant drafting by the Legislature. Rather, subsection (e), the public interest standard, while containing similar language to that found in

previous subsections, is an independent standard of co-equal value with subsections (a), (b), and (c). Subsection (e) does not eviscerate the prior subsections, but allows that SEC to view all of the factors of subsections (a), (b), and (c), as well as the purposes of RSA 162-H, more holistically and broadly to determine if the project, measured by all characteristics, benefits and impacts, ultimately serves the public interest.

8. It is, therefore, possible that the SEC could find the Project is against the public interest because of the impact associated with any of the subsections (a), (b), and (c) of RSA 162-H:16, IV, or any combination of them, even if the SEC did not find that any impact specific to one subsection, when considered in isolation, would merit denial of the application. This makes sense: an impact taken in isolation may not be too unreasonable on its own, but a Project may nonetheless be against the public interest when weighed together with all other impacts and benefits of the project. The legislative intent supports this holistic and broad approach.

9. Given this, it is apparent that the evidence concerning the factors of Site 301.16 is relevant in all tracks of the hearings. Because this has not been stated in the procedural orders, the record is not clear as to when evidence relevant to the public interest standard may be introduced.

10. This lack of clarity could lead to confusion amongst the parties and, by extension, members of the SEC. A brief clarification would alleviate this confusion, streamline the hearing, and foster a more transparent and efficient administrative process.

11. The parties below take the following positions with respect to this request:

a. Concur:

Abutting Property Owners (overhead portion), Deerfield  
Abutting Property Owners (overhead portion), Dummer, Stark, and  
Northumberland  
Abutting Property Owners (overhead portion), Whitefield, Dalton, and  
Bethlehem  
Abutting Property Owners (underground portion), Bethlehem to Plymouth

Appalachian Mountain Club, Conservation Law Foundation, Sierra Club  
Chapter of NH, and Ammonoosuc Conservation Trust  
Municipal Group 1-South  
Municipal Group 2  
Municipal Group 3-North  
NEPGA  
Non-Abutting Property Owners (overhead portion), Stark, Lancaster,  
Whitefield, Dalton, and Bethlehem  
Pemigewasset River Local Advisory Committee

b. Take No Position:

Applicants

c. The remainder of the parties did not respond to a request for their position.

**WHEREFORE**, the Forest Society and the Grafton County Commissioners respectfully request that the Committee:

- A. Grant this Motion to Clarify and issue an order clarifying that evidence relevant to the “public interest” standard of RSA 162-H:16, IV(e) and Site 301.16 may be introduced in any “track” of the hearing; and
- B. Grant such further relief as it deems appropriate.

Respectfully Submitted,

**SOCIETY FOR THE PROTECTION OF  
NEW HAMPSHIRE FORESTS**

By its Attorneys,  
BCM Environmental & Land Law, PLLC



Date: April 24, 2017

By: \_\_\_\_\_

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**GRAFTON COUNTY COMMISSIONERS**

By their Spokesperson,



for

Date: April 24, 2017

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, April 24, 2017, a copy of the foregoing Motion was sent by electronic mail to persons named on the Service List of this docket.



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Amy Manzelli, Esq.