

MCLANE
MIDDLETON

THOMAS B. GETZ
Direct Dial: 603.230.4403
Email: thomas.getz@mclane.com
Admitted in NH
11 South Main Street, Suite 500
Concord, NH 03301
T 603.226.0400
F 603.230.4448

May 4, 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 Motion *In Limine* to Exclude Testimony of Mitch Nichols**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of the Applicants' Objection to Motion *In Limine* to Exclude Testimony and Report of Mitch Nichols.

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**

**APPLICANTS' OBJECTION TO MOTION *IN LIMINE*
TO EXCLUDE TESTIMONY AND REPORT OF MITCH NICHOLS**

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 Counsel for the Public’s (“CFP”) Motion *In Limine* to Exclude Testimony and Report of Mitch Nichols and Nichols Tourism Group (“Motion”) filed on April 24, 2017, in the above-captioned proceeding. As discussed below, the Motion is inconsistent with state law and relies on authority that the Site Evaluation Committee (“SEC” or “Committee”) has clearly determined does not apply to these proceedings. Moreover, the Motion relies entirely on CFP’s economics witness, who lacks experience in the tourism industry, is not qualified to perform the kind of assessment conducted here, does not cite to a single document demonstrating an actual impact on tourism, and prepared a report based on conjecture and supposition. The Motion appears to be an attack on Mr. Nichols for tactical purposes alone and should be denied.

I. Background

1. The Applicants filed an Application for a Certificate of Site and Facility with the SEC on October 19, 2015, for a 192-mile electric transmission line with associated facilities (“Northern Pass” or “Project”). Included in the Application was the Pre-Filed Direct Testimony

of Mitch Nichols, as well as a report titled Northern Pass Transmission and New Hampshire's Tourism Industry ("Nichols Report").

2. On May 13, 2016, CFP filed a Motion for Leave to Retain Kavet, Rockler & Associates and for an Order Directing the Applicants to Bear the Costs Thereof ("Motion for Leave"). On May 26, 2016, the Committee granted the motion.

3. On December 30, 2016, Nicholas O. Rockler and Thomas E. Kavet (together "KRA") filed Pre-Filed Testimony and an associated report titled "Economic Impact Analysis and Review of the Proposed Northern Pass Transmission Project" ("KRA Report").

4. On April 17, 2017, the Applicants filed the Supplemental Pre-Filed Testimony of Mitch Nichols in which he rebutted KRA's pre-filed testimony and Report. On April 24, 2017, CFP filed this Motion.

II. Discussion

5. CFP argues that the testimony of the Applicants' expert witness on tourism, Mr. Nichols, should be excluded. In doing so, CFP is wrong in two fundamental regards. First, the statutory basis for CFP's argument, RSA 516:29-a, applies to Proceedings in Court, N.H.R.S.A., Title LIII, not to administrative hearings under Title LV, Proceedings in Special Cases. Second, even if RSA 516:29-a did apply, Mr. Nichols is a recognized expert in his field, and his testimony is based upon sufficient facts or data, is the product of reliable principles and methods, and those principles and methods have been reliably applied.

6. With respect to CFP's effort to apply the rules of evidence from court proceedings to this case, CFP need look no further for guidance than the Presiding Officer's April 24, 2017 Order Denying Applicants' Motion to Strike. As the Presiding Officer noted at p. 6, "the rules of evidence do not apply in administrative proceedings." He further stated that: "The

Subcommittee is capable of recognizing whether witnesses have sufficient credentials and/or expertise to support the opinions expressed in his testimony. The weight of the contested testimony will be considered by the Subcommittee after it has been tested through cross examination.”

7. CFP’s argument is a house of cards. CFP starts with New Hampshire Rule of Evidence 702, but acknowledges that the rules of evidence do not apply in administrative proceedings. RSA 541-A:33, II. CFP then turns to the United States Supreme Court’s ruling in *Daubert v. Merrell Dow Pharms* (hereafter *Daubert*), but acknowledges it is only binding in federal court. Next, CFP links *Daubert* to RSA 516:29-a, but that provision relates to the competency of witnesses in courts of law. Finally, in an apparent concession to the infirmity of the Motion, CFP says that RSA 516:29-a “*arguably* alters the application of RSA 541-A:33 to the SEC’s consideration as to whether to exclude potential expert testimony.” Motion, p. 4. (Emphasis supplied.) So, according to CFP, when the Legislature said in RSA 541-A:33 that the rules of evidence do not apply to adjudicative hearings, it did not include this particular rule of evidence. CFP does not, however, provide any support for this conclusion, other than to say that it is “arguable.” And if it were the case that this rule of evidence applied, it would raise the question of what other rules of evidence applied, and the further question of how one would know which rules apply.

8. As an additional point of reference, the New Hampshire Public Utilities Commission (“PUC”) has held that *Daubert* “does not apply to proceedings before the Commission.” See Attachment A, Order on Motion *in Limine* to Disqualify Certain Witnesses, Order No. 24,706, p. 2 (December 8, 2006). As part of its determination whether to exclude the testimony of George Sansoucy as to the valuation of the Pennichuck Water Works, the PUC

reasoned that “[t]he fact finders here are not jurors who would unfairly be misled by experts whose expertise is dubious in ways not obvious to lay decision makers, a consideration that was important in *Daubert*.” Moreover, “[t]he Commission has traditionally relied upon its expertise to evaluate the credibility of expert testimony, something that is best exercised through hearing, which provides the opportunity both to hear vigorous cross examination of such witnesses and to pose our own questions.” *Id.*, at 3. The PUC denied the motion, which is the appropriate result here. Like the PUC, the SEC is fully capable of assessing the credibility of Mr. Nichols and KRA during the adjudicative hearings.

9. To the extent that *Daubert* and RSA 516:29-a have any relationship to this proceedings, the Motion is unavailing. In support of the Motion, CFP relies entirely on the findings of CFP’s consultant, KRA. In contrast to Mr. Nichols, KRA lacks experience in the tourism industry, is not qualified to perform the kind of assessment conducted here, does not cite to a single document demonstrating an actual impact on tourism, and prepared a report that is based on conjecture and supposition.¹ Nevertheless, CFP relies on KRA’s assessment to conclude that the pre-filed testimony and report of a recognized tourism expert, who had previously been hired by the New Hampshire Department of Resources and Economic Development specifically for the purpose of conducting a tourism assessment of the State, does not have evidentiary value to the Committee.

10. At a more fundamental level, the Motion exemplifies a lack of knowledge of relevant research and analyses germane to the tourism industry shown by consultants who are not qualified to assess tourism impacts related to high voltage transmission lines. Relying on the

¹ According to KRA’s pre-filed testimony, KRA “specializes in regional economics, regional econometric modelling, construction market economic analysis and forecasting, industry and regional economic impact analysis, demographic forecasting and state and local economic modeling and forecasting.”

unfounded critiques contained in the KRA Report to conclude that the SEC should not even hear Mr. Nichols' testimony, while dismissing Mr. Nichols' 20 years of experience in the industry, is hard to fathom as an objective, even-handed exercise.

11. The facts are these. Mr. Nichols is a highly qualified and respected expert with deep experience working in the tourism industry. His client portfolio spans tourism destinations across the United States and, as noted above, the State of New Hampshire hired Mr. Nichols to assess the identity of the State's tourism industry and work with them in planning initiatives. While KRA has conducted tangential tourism-related assessments within the context of broader economic impact assessments, it has no experience analyzing the benefits and impacts related to a Project of this scope. On the other hand, Mr. Nichols' entire professional career has been committed to this discipline.

12. The Applicants also note that in his Supplemental Pre-Filed Testimony, filed on April 17, 2017, Mr. Nichols thoroughly rebuts criticisms CFP relies on here, and details the substantial shortcoming of KRA's analysis and findings overall. See Attachment B. Among other things, Mr. Nichols points out that KRA offered no quantifiable evidence for the range of impacts it identified and that the studies KRA cited as a basis for its impact assessment do not support the range of impacts. However, it does not appear that CFP took this into account when filing the Motion.

13. Finally, there is broad consensus across the industry that quantifying the impacts of transmission lines on tourism is challenging. Indeed, KRA testifies as much. *See* Pre-Filed Testimony of Dr. Nicholas O. Rockler, p. 8 (stating that "[i]t is difficult to quantify potential negative tourism impacts from the Project."). In fact, the dispositive point here is that KRA does

not demonstrate an actual, quantifiable impact on tourism as a result of high voltage transmission lines.

III. Conclusion

14. CFP has gone too far in arguing that Mr. Nichols’ testimony and report should be given no evidentiary weight. More apt is CFP’s previous statement in this proceeding, in its Objection to the Applicants’ Motion to Strike Certain Track 1 Testimony, at p. 3, in that CFP is “free to challenge the evidence presented on these issues through cross examination and the Committee is free to appropriately weigh the evidence as it sees fit consistent with its statutory obligations.” The Motion to exclude Mr. Nichols’ report and testimony has no legal or factual basis and should be denied.

WHEREFORE, the Applicants respectfully request that the Site Evaluation Committee:

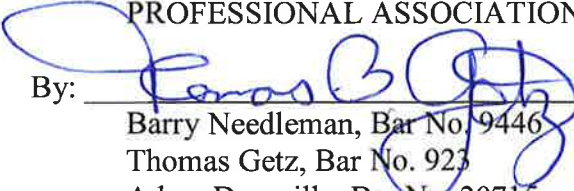
- A. Deny the Motion; and
- B. Grant such further relief as is deemed just and appropriate.

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: May 4, 2017

By: 
Barry Needleman, Bar No. 9446
Thomas Getz, Bar No. 923
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 4th day of May, 2017, an electronic copy of this Objection was served upon the New Hampshire Site Evaluation Committee and upon the SEC Distribution List and the original and one copy were hand delivered to the New Hampshire Site Evaluation Committee.


Thomas B. Getz

DW 04-048

CITY OF NASHUA

RSA 38 Petition re Pennichuck Water Works

Order on Motion *in Limine* to Disqualify Certain Witnesses

ORDER NO. 24,706

December 8, 2006

In this RSA 38 proceeding before the New Hampshire Public Utilities Commission, scheduled to be heard by the Commission beginning on January 10, 2006, respondent Pennichuck Water Works (PWW) moved *in limine*, on November 28, 2006, to disqualify, and thus exclude the testimony of, two witnesses offered by petitioner City of Nashua on the issue of valuation.¹ For the reasons that follow, rather than await responsive pleadings we deem it consistent with the public interest to deny the motion summarily but without prejudice.

At issue are witnesses George E. Sansoucy and Glenn C. Walker, who submitted prefiled direct testimony on January 12, 2006, that offered a proposed valuation of \$85 million with respect to the PWW property the City seeks to municipalize pursuant to RSA 38. Relying on assertions made in that testimony, the witnesses' subsequently filed reply testimony, material adduced in discovery and certain public statements made by the witnesses in the course of seeking their engagement with the City, PWW contends that Sansoucy and Walker are so unreliable as witnesses that their testimony should be excluded prior to hearing.

¹ Although motions *in limine* – i.e., motions at the threshold of a trial or hearing, designed to resolve issues related to the taking of evidence -- are not normally a part of practice before the Commission, in light of the complexity of this proceeding and the need to use hearing time efficiently we explicitly invited the submission of such motions on or before December 12, 2006. See Secretarial Letter of November 22, 2006.

The specific issues raised by PWW are to the effect that (1) Sansoucy and Walker are biased in favor of the City in a manner that is inconsistent with the Uniform Standards of Professional Appraisal Practice (USPAP) because they stand to profit personally from an outcome favorable to the City and specifically sought their engagement by promising to recommend a predetermined outcome, and (2) that the two witnesses failed to follow the USPAP standards when they conducted their actual valuation by employing a “no net harm” approach that bears no relationship to accepted valuation methodologies as well as misapplying the accepted methodologies. Relying on the leading U.S. Supreme Court case on the admissibility of expert testimony, *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and the state-law codification of the *Daubert* principles found at RSA 516:29-a, PWW contends that the Commission “should not lower the bar to allow Sansoucy and Walker to testify as to their opinion of value if such an expert opinion would not be permitted in court.”

We are aware that the parties confront significant and time-consuming tasks in the weeks ahead so as to prepare for lengthy hearings scheduled in January. In these circumstances, it serves no useful purpose to require the parties to expend further resources on drafting pleadings on an issue that is essentially, and obviously, unripe.

The law relied upon by PWW does not apply to proceedings before the Commission. The Legislature has explicitly determined that the rules of evidence, as used in civil courts, are not applicable in contested cases before administrative tribunals generally, *see* RSA 541-A:33, II, and the Commission specifically, *see* RSA 365:9. The fact finders here are not jurors who would be unfairly misled by experts whose expertise is dubious in ways not obvious to lay decision makers, a consideration that was important in *Daubert*. *See Daubert*, 509 U.S. at 595-

DW 04-048

- 3 -

96 (reminding trial judges of their discretion under federal evidence rules to exclude otherwise-relevant evidence if it would mislead the jury, but cautioning not to be “overly pessimistic about the capabilities of the jury and of the adversary system generally” to deal with “shaky but admissible evidence”).

The Commission has traditionally relied upon its expertise to evaluate the credibility of expert testimony, something that is best exercised through hearing, which provides the opportunity both to hear vigorous cross examination of such witnesses and to pose our own questions.² That is the appropriate result here. Accordingly, and without expressing any views as to the substance of the concerns raised by PWW about witnesses Sansoucy and Walker, we deny the pending motion *in limine* without prejudice to PWW’s opportunity to preserve such arguments at the appropriate point in the merits hearing.

Based upon the foregoing, it is hereby

ORDERED, that the motion *in limine* of Pennichuck Water Works to disqualify and exclude the testimony of City of Nashua witnesses George E. Sansoucy and Glenn C. Walker is **DENIED** without prejudice.

² The Washington Utilities and Transportation Commission (WUTC) made essentially the same point in the one administrative decision PWW cites in support of its invocation of *Daubert* here. See *In the Matter of the Continued Costing and Pricing of Unbundled Network Elements, Transport, and Termination* (Wash. Utils. and Transp. Comm’n Docket No. UT-003013, October 11, 2002), 2002 Wash. UTC LEXIS 393 at *30-*31 (“The Commission is satisfied that we have met [the *Daubert*] standard, because of our active participation in the evidentiary hearings” including “pertinent and substantial cross-examination by the bench of virtually every subject matter expert who appeared in support of the cost models sponsored by the parties”) (quoting earlier order in same docket, citation omitted).

DW 04-048

- 4 -

By order of the Public Utilities Commission of New Hampshire this eighth day of
December, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary

THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE SITE EVALUATION COMMITTEE
DOCKET NO. 2015-06

SUPPLEMENTAL PRE-FILED TESTIMONY OF
MITCH NICHOLS

IN SUPPORT OF THE
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 TO CONSTRUCT A NEW
HIGH VOLTAGE TRANSMISSION LINE AND RELATED FACILITIES IN
NEW HAMPSHIRE

April 17, 2017

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

Purpose of Supplemental Testimony

Q. Please state your name, title, and business address.

A. My name is Mitch Nichols, President of Nichols Tourism Group, 16 Tee Pl, Bellingham WA.

Q. What is the purpose of your Supplemental Testimony?

A. In this supplemental testimony I correct inaccuracies in my September 2015 report and respond to issues raised by intervenors with respect to my testimony.

Corrections to my Pre-filed Direct Testimony dated 10/16/2015

Q. Please identify and explain any corrections to your previous testimony.

A. There are two. First, the headings for Table 5-2 on p. 22 of my report entitled *Northern Pass Transmission and New Hampshire’s Tourism Industry* (Appendix 45 of the SEC Application) should read “Total Change in Number of Establishments” and “Total Change in Number of Employees”, rather than “Average Annual Change.” Second, the table on p. 20 of my report should read as shown below:

Table 5-1		
Average Annual Change in Number of Establishments		
Years	Phase II Line Counties	All Other Counties
1986-1990	4.5%	2.3%
1991-1995	2.8%	2.5%
1986-1995	3.7%	2.5%
Average Annual Change in Number of Employees		
Years	Phase II Line Counties	All Other Counties
1986-1990	1.2%	2.2
1991-1995	2.3%	1.4%
1985-1995	1.8%	1.9%
Source: NTG and NLTeC based on BLS		

1 **Q. Do these changes affect your opinion on the potential effect of the Northern**
2 **Pass Project on the New Hampshire tourism industry?**

3 A. No, they do not.

4 **Response to Issues Raised by Counsel for the Public**

5 **Q. What issues have been raised by Counsel for the Public’s witnesses from**
6 **Kavet Rockler and Associates (“KRA”) that you want to respond to?**

7 A. The most significant issue I want to address is the suggestion by KRA that there is
8 any empirical basis whatsoever for any estimate of economic effects to the tourism industry.
9 There are other aspects of the KRA assessment of possible tourism impacts testimony that I also
10 address below.

11 **Q. What is your overall assessment of the KRA review of possible tourism**
12 **impacts?**

13 A. The fundamental flaw in the KRA report is the authors’ suggestion that tourism
14 impacts may range from 3-15%. There is no quantifiable evidence to support that notion, and the
15 KRA economic impact calculations based on those numbers are purely an arithmetical exercise,
16 with no empirical foundation whatsoever. The KRA pre-filed testimony at p. 8, line 22 correctly
17 notes that “it is difficult to quantify potential negative tourism impacts from the Project,” and at
18 p. 64 accurately states that there are few prior studies on the issue of impacts to tourism from
19 transmission lines. In fact, there are no studies that provide any meaningful empirical basis for
20 estimating any such impact. This was also the conclusion reached in the Draft Environmental
21 Impact Statement prepared by the United States Department of Energy (“USDOE”) at p. 2-42,
22 which states that “No studies have been completed documenting the potential impacts of
23 transmission lines on tourism, and there is no existing literature with which to judge the potential
24 impact of the Project on tourism in New Hampshire.” KRA cited three studies that purport to do
25 this, but all three of these studies are flawed and cannot be relied on in developing quantitative
26 estimates of visitation demand and spending changes. I address these and other issues in the
27 KRA report below.

1 **Q. You mention three studies cited by KRA. What is wrong with its reliance on**
2 **those studies in developing its impact estimates?**

3 A. The KRA analysis relies heavily on three research reports in formulating its
4 impact assessment. For KRA to rely on them as the principal basis for its suggestion¹ that there
5 are prior empirical studies on tourism impacts from transmission lines is wrong and entirely
6 misleading. I briefly describe the limitations in each of these studies below:

7 KRA first cites a 2009 Scotland study² that made specific estimates of visitation or
8 spending losses in the 3–15% range, which was central to KRA’s potential impact conclusions in
9 this case. There are two obvious reasons why this study provides no quantifiable basis at all for
10 any estimate of potential impact. First, the methodology used to develop the base impact
11 estimate relied primarily on a survey of area businesses to provide some indication of potential
12 future impacts of the transmission lines, an approach based purely on conjecture that provides no
13 basis in actual demonstrable impacts. The range of impacts cited by KRA were developed by
14 the Scottish “Reporters” to illustrate the subjective nature of this approach and the broad range of
15 results that could be generated depending on the assumptions used in the calculations. The
16 second reason to question this report is that the reviewing body considering the transmission line
17 proposal in question concluded that the study did not provide an “evidential basis to quantify the
18 potential adverse impact of the proposed 400 kV overhead line on tourism along the proposed
19 line.”³

20 The second study cited by KRA is an assessment of tourism impacts done in response to
21 an environmental feasibility analysis relating to a transmission line under consideration in
22 California’s Anza-Borrego Desert State Park. In the report, the author, Michelle Haefele, an
23 environmental and natural resource economist based in Fort Collins, Colorado, acknowledged
24 that “[f]ew studies exist which detail lost tourism revenue or expected decline in visitation
25 directly attributable to power lines.”⁴ As a key basis for her estimated impact, she cites the
26 Scotland study discussed above. As KRA has done in its report in this proceeding, the author of
27 the Anza-Borrego study merely calculated lost visitation factors of 5, 10 and 15 percent based on

¹ I use the term “suggestion” here because nowhere does KRA assert that there will be a negative effect. Rather, the KRA team surmises that there could be a possible effect. See, e.g., the Kavet and Rockler pre-filed testimony at p. 8, lines 8-9, 14.

² Beaulieu-Denny Report 1: Chapter 16 Tourism, Recreation and Economic Impact.

³ Id at p. 16-22.

⁴ Economic Impact of Power Line Siting in Anza-Borrego Desert State Park (2015) at 9.

1 visitation spending in the area. Any such estimates are entirely lacking in empirical evidence
2 and cannot be relied on.

3 The final study cited by KRA is “*Human Use and Ecological Impacts Associated with the*
4 *Proposed Susquehanna to Roseland Transmission Line*”.⁵ This analysis was prepared in response
5 to the Final Environmental Impact Statement for the National Park Service’s Susquehanna to
6 Roseland 500 kV Transmission Line Right-of-Way that would cross the Delaware Water Gap
7 National Recreation Area. The authors of that study again note the absence of “of any existing
8 studies that specifically estimate the reduction in recreational trip value associated with a change
9 in transmission line size and characteristics.”⁶ They attempted to estimate the “per trip loss
10 factor”, and that estimate relied on studies on “recreators’ willingness to pay to preserve or
11 improve the scenic quality of forests and vistas,” and on property value impact studies.⁷ While
12 this report concluded that there could be an effect of 5%, that is purely conjectural, with no
13 grounding in actual experience with transmission lines and the effect, if any, on visitor travel
14 decisions. That estimate was also rejected in the FEIS for that project. The FEIS concluded that
15 it is not possible to estimate the loss to the local economies as a result of visitation changes
16 caused by the proposed transmission line, and that it was unlikely that any temporary impacts to
17 visitation rates or long term effects on visitation would reach a level of significance.⁸

18 KRA’s reliance on any of these studies to suggest that there will be a 3–15% negative
19 effect on tourism is inappropriate.

20 **Q. What is your opinion of KRA’s reliance on two interviews to support its**
21 **tourism impact estimates?**

22 A. KRA states on p. 65 of its report that in conversations with KRA two respected
23 New Hampshire tourism experts “estimated that tourism visitation and spending could ultimately
24 be reduced by at least 3 to 10%, and possibly as much as 15%, due to the presence of the
25 proposed transmission line in its current form and location.” Nothing in the KRA testimony and
26 report, however, explains any basis for this estimate. KRA’s notes of meetings with Ms.
27 DeSouza and Mr. Okrant include no reference to such estimates. It is obviously impossible to
28 evaluate in any way the merit of this estimate, such as it is. Thus, these interviews provide no

⁵ Human Use and Ecological Impacts Associated with the Proposed Susquehanna to Roseland 500kV Transmission Line (2012)

⁶ Id. at p. 19.

⁷ Id.

⁸ Northern Pass Transmission Line Project Environmental Impact Statement Volume 1: Impact Analysis at 4-5.

1 foundation whatsoever on which to base the estimates used by KRA in its analysis. Like KRA's
2 reliance on the three studies discussed above to suggest any empirically based estimate of
3 impacts, it is inappropriate and misleading to point to these interviews for that purpose.⁹

4 **Q. What is your response to KRA's use of your visitor survey findings in its**
5 **tourism impact estimates?**

6 A. It is entirely misplaced. KRA inappropriately considers survey responses regarding the
7 presence of transmission lines in a vacuum to support its impact estimate. In my survey analysis,
8 I acknowledged that some respondents viewed power lines as a visitation barrier, similar to
9 traffic delays, commercial and industrial encroachments, wind farms and cell towers. A critical
10 point, however—completely missed by KRA—is that these considerations have to be placed in
11 context with the much more influential factors of ease of access, range of things to do, or value
12 for money, which are much more prominent in a traveler's decision making process. It is one
13 small factor among the many others influencing visitation decisions. The role of these other
14 factors was also recognized in the DEIS as the authors noted that "impacts to tourism appear to
15 be more affected by macroeconomic factors such as the stability of the national economy and
16 gasoline prices more than site-specific changes." P. 2-42

17 **Q. How do you respond to KRA's criticism of your review of tourism related**
18 **data with regard to the existing Phase II transmission line and the recently-completed**
19 **Maine Power Reliability Program?**

20 A. KRA comments on a few nuances of how I presented the information on the
21 Maine Power Reliability Program ("MPRP"). But the fundamental observation I made—that the
22 data simply reveals no indication of an effect from a large transmission project on the tourism
23 industry in that state—was unchallenged. In further response, I brought the data forward two
24 additional years to gauge whether the more current data shows a different result. (This recent

⁹ The meeting notes do include the following comments from Professor Okrant, former director of the program at Plymouth State University that has collected and maintained NH tourism data since 1990:

- "I do think the researcher (team?) effectively captured the visitor market as we have reported it, including the list of motivations for visiting NH,
- furthermore, the list of roles in stimulating visitors' decisions about where to travel is spot on,
- in conclusion, the research is generally sound; however, were I in his shoes, I would want quantitative support for the statement about the transmission line's limited impact on visitor behaviors.
- one of the researchers who assisted in the preparation of the document is Dan Fesenmaier, a most credible tourism researcher."

This e-mail is on the Applicants' Track 2 Exhibit List.

1 data was not available when I filed my original testimony.) I added to my previous analysis of
2 tourism related establishments and employees in Maine to include the years 2014-2015, as 2015
3 marks the end of construction of the MPRP project. Taking account of that additional two years
4 of data, tourism-related establishments in counties in which the MPRP is primarily located grew
5 by 6.8% between 2008 and 2015, as compared with a rate of 0.2% for all other counties.

6 Similarly, the number of tourism related employees in the counties where MPRP is located grew
7 3.9% over this time period, as compared to a negative growth rate (-1.3%) for all other counties.

8 The strength of tourism related businesses in those regions of the state where the MPRP
9 project is located is also evident in the data on statewide and regional tourism visitation. Over
10 the past four years—the time when MPRP was actively under construction—visitation to the
11 state continued to grow and expand. In 2015, the year in which the MPRP was completed, a
12 record 39.5 million visitors came to Maine.¹⁰ The four economic regions in Maine where MPRP
13 is primarily located—the Maine Beaches, Greater Portland & Casco Bay, Maine Lakes and
14 Mountains, and Maine’s MidCoast & Islands—are key tourism areas of the state, accounting for
15 two thirds of the state’s tourism expenditures.¹¹ Maine’s MidCoast and Islands region was the
16 fastest growing region in 2015 for visitor expenditures, growing by 17.5%. Last, the recreation
17 segment of Maine’s tourism industry was the fastest growing segment in 2015, expanding by
18 over 9%.¹²

19 This experience in Maine is consistent with my overall findings and view that the data on
20 the tourism industry in and around a large transmission projects in New Hampshire and another
21 in Maine do not hint at a negative effect from those projects on visitation and tourism revenues.
22 As I stated in my Pre-filed Direct Testimony dated October 16, 2015, while transmission lines
23 can be a factor for some visitors, other factors influencing travel demand are much more
24 influential. It is the combination of many factors—including the range of tourism products, the
25 ease of access, the value for their money, the overall image and identity of a destination—that
26 drive visitors to a destination.

¹⁰ Maine Office of Tourism Visitor Tracking Research 2015 Calendar Year Annual Report (2016) at 18.

¹¹ Id.

¹² Id.

1 **Q. Do you have any other comments on the KRA testimony of potential tourism**
2 **effects? Please explain.**

3 A. Yes, on one additional point. The KRA witnesses explained the absence of
4 existing research on transmission line impacts to tourism in this way: “the absence of discussion
5 regarding the development of high voltage transmission lines in areas of high scenic value is not
6 because they would not impact tourism visitation, but because such areas would never consider
7 allowing this type of development...”¹³ This unsupported statement reveals a fundamental
8 misunderstanding of the issue and ignores many real-life examples that undercut the assertion.
9 In my over 20 years of experience in this field, I disagree with this statement. I have worked in a
10 wide range of beautiful tourism destinations, where transmission lines, large and small, are
11 located in plain view of these resources and along access roads to them. For example, see the
12 attached images of two such locations – Estes Park in Colorado, the “base camp” (and key
13 gateway) to Rocky Mountain National Park, and the North Cascade Scenic Byway in
14 Washington State (Attachment A). These destinations are and have remained very popular places
15 to visit, which again reinforces my fundamental conclusion—it is the broad range of destination
16 attributes that drive visitor decisions, not a single factor like the presence of transmission lines.

17 **Q. Has your opinion that the Northern Pass Project will not have an effect on**
18 **regional travel demand and will not have a measurable effect on New Hampshire’s tourism**
19 **industry changed? Please explain.**

20 A. No. My opinion remains that the same. Furthermore, nothing presented in the
21 KRA report and testimony or in intervenor testimony provides any reasonable basis to question
22 my overall assessment that the Project will not affect regional travel demand, and that it will
23 have no measurable effect on the State’s tourism industry.

24 **Q. Does this conclude your pre-filed testimony?**

25 A. Yes, it does.

¹³ Economic Impact Analysis and Review of the Proposed Northern Pass Transmission Project, Exhibit B to Pre-Filed Testimony of Kavet, Rockler & Associates (Dec. 30, 2016) at 28.