

May 22, 2017

*Via Electronic Mail & Hand Delivery*

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

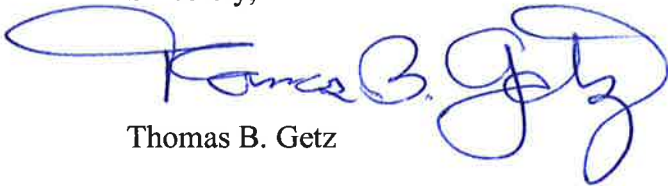
**Re: Site Evaluation Committee Docket No. 2015-06  
Joint Application of Northern Pass Transmission LLC and Public Service Company  
of New Hampshire d/b/a Eversource Energy (the "Applicants") for a Certificate of  
Site and Facility  
Objection to Motion for Rehearing Regarding Production of Economic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

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of an  
Objection to Motion for Rehearing Regarding Production of Economic Model.

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 MOTION FOR REHEARING  
REGARDING PRODUCTION OF ECONOMIC MODEL**

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 Society for the Protection of New Hampshire Forests’ (“SPNHF”) Motion for Rehearing on Order on Motion to Compel Production of London Economics International, LLC’s (“LEI”) Economic Model From the Applicants, or, Alternatively, Motion to Strike Testimony (“Motion for Rehearing”) filed on May 12, 2017. In a game of procedural leapfrog with Counsel for the Public (“CFP”), SPNHF is now asking the Site Evaluation Committee (“SEC” or “Committee”) to reconsider an issue it has decided twice in this proceeding. As the Applicants explain below, SPNHF does not demonstrate good cause for rehearing.

1. SPNHF filed a motion to compel on August 15, 2016, seeking, among other things, production of LEI’s proprietary economic model. On September 22, 2016, the Presiding Officer issued an Order on Motions to Compel (the “September 22<sup>nd</sup> Order”) denying SPNHF’s motion to compel production of the model. SPNHF did not seek rehearing of that Order, though it says this Motion for Rehearing is meant to preserve the issue for appeal.

2. Subsequently, after LEI provided its February 15, 2017 Update of the Electricity Market Impacts Associated with the Proposed Northern Pass Transmission Project, a technical

session was held on February 27, 2017. The SEC Administrator issued Technical Session Data Requests on March 3, 2017, which included a request for the LEI model. The Applicants objected to the request on March 13, 2017, pointing out that the request was duplicative of a request that had already been denied as part of the September 22<sup>nd</sup> Order.

3. CFP then filed a motion to compel on March 15, 2017, seeking production of the LEI model and arguing, primarily, that CFP has a special right to it pursuant to RSA 162-H:10. Secondly, it renews the SPNHF argument, disposed of in the September 22<sup>nd</sup> Order, that the model should be produced as a general matter. Alternatively, CFP argues that Ms. Frayer's testimony and report should be stricken. SPNHF filed a "Joinder" on March 17, 2017. The Applicants objected to the motion to compel on March 23, 2017, and CFP made an unauthorized reply on April 6, 2017.

4. On April 12, 2017, the Presiding Officer denied CFP's motion requesting that the Applicants be compelled to produce the same LEI model (the "April 12<sup>th</sup> Order"). He reiterated his prior ruling, emphasized that sufficient information had been supplied to test LEI's data and conclusions, and noted that CFP's right to access information is not limitless. Finally, the Presiding Officer concluded that CFP had "failed to indicate how the information provided by the Applicant is inadequate to allow his experts to analyze, scrutinize, and test the data with its own modelling approach and/or by testifying about weaknesses perceived in LEI's inputs, outputs, or assumptions." April 12<sup>th</sup> Order, at p. 9. CFP has not requested rehearing.

5. SPNHF's Motion for Rehearing does not challenge the Presiding Officer's findings nor does it question his analysis. Rather, SPNHF revives its nine-month old complaint,

saying, at p. 3, that it “remains unable to test the methodology and conclusions as to the Project’s benefits without having LEI’s model.”<sup>1</sup>

6. A motion for rehearing must (1) identify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered, (2) describe how each error causes the committee’s order or decision to be unlawful, unjust or unreasonable, and (3) state concisely the factual findings, reasoning or legal conclusion proposed by the moving party. Site 202.29(d).

7. The purpose of rehearing “is to direct attention to matters that have been overlooked or mistakenly conceived in the original decision ...” *Dumais v. State*, 118 N.H. 309, 311 (1978) (internal quotations omitted). A rehearing may be granted when the Committee finds “good reason” or “good cause” has been demonstrated. *See O’Loughlin v. NH Pers. Comm.*, 17 N.H. 999, 1004 (1977); *Appeal of Gas Service, Inc.*, 121 N.H. 797, 801 (1981). “A successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome.” *Public Service Co. of N.H.*, Order No. 25,676 at 3 (June 12, 2014); *see also Freedom Energy Logistics*, Order No 25,810 at 4 (Sept. 8, 2015).

8. SPNHF’s Motion for Rehearing does not refute the Presiding Officer’s determination that revealing proprietary information and software is unnecessary. SPNHF does not identify any error of fact, law, or reasoning but, instead, makes a vague and generalized due process argument. Instead it declaims, on p.4, that “[p]arties should not have to go into the final hearings on the merits asking questions about something which the Applicants have been allowed to keep secret.”

---

<sup>1</sup> SPNHF also says it needs the model to weigh benefits against impacts (misstating the public interest finding contained in RSA 162-H:16, IV (c) as a net benefits test), which is both factually and legally incorrect.

9. SPNHF's analysis here suggests that it either misunderstands or simply disagrees with the Committee's April 12<sup>th</sup> and September 22<sup>nd</sup> Orders. As explained above, the Presiding Officer has found on two separate occasions that the Applicants have provided sufficient information for parties to analyze, scrutinize, and test the data. SPNHF's Motion for Rehearing does not upend this finding.

10. The Applicants also note the inefficacy of SPNHF's effort to preserve the issue for appeal. As pointed out above, SPNHF sought and was denied the same underlying relief, but did not seek rehearing regarding its own motion. Belatedly "joining" CFP's motion does not resuscitate its claim. While SPNHF contends, at p. 2 of its Motion for Rehearing, that it is directly affected by the April 12<sup>th</sup> Order "because the relief sought also by the Forest Society was denied," the crux of the CFP motion related to CFP's special status under RSA 162-H:10, which does not apply to SPNHF.

11. In summary, SPNHF does not show that the Presiding Officer's decision was unlawful or unreasonable and does not provide a good reason for rehearing; rather, it simply asks for a different result. Inasmuch as the Presiding Officer did not overlook or mistakenly conceive anything in his original decision, the Motion for Rehearing should be denied.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- a. Deny SPNHF's Motion for Rehearing; 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

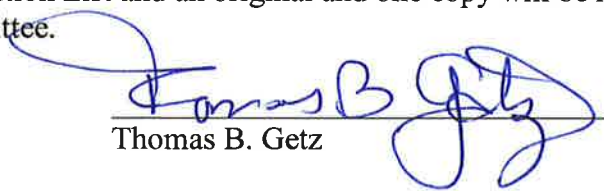
Dated: May 22, 2017

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 22<sup>nd</sup> day of May, 2017 the foregoing Objection was electronically served upon the SEC Distribution List and an original and one copy will be hand delivered to the NH Site Evaluation Committee.

  
Thomas B. Getz