

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 MOTION FOR REHEARING OF
ORDER ON MOTION TO TEMPORARILY SUSPEND DELIBERATIONS
PURSUANT TO RSA 162-H:14**

The Society for the Protection of New Hampshire Forests (the “Forest Society”), by and through its attorneys, BCM Environmental & Land Law, PLLC, together with the Grafton County Commissioners, and Municipal Groups 1 South, 2, and 3 North (collectively “the Movants”) move to rehear the April 25, 2017, decision denying Municipal Intervenor Groups 1 South, 2, 3 South, and 3 North’s Motion to Temporarily Suspend Deliberations Pursuant to RSA 162- H:14. In support, the Movants state as follows:

BACKGROUND

1. On March 29, 2017, Municipal Intervenor Groups 1 South, 2, 3 South, and 3 North (collectively “the Parties”) filed a Motion to Temporarily Suspend Deliberations Pursuant to RSA 162- H:14 (the “Motion”) requesting the SEC find that a suspension of the proceedings until resolution of the Massachusetts RFP is in the public interest and immediately cease all proceedings in this docket until such a time that the Massachusetts RFP has been awarded.
2. Applicants objected to the Motion on March 31, 2017.
3. On March 31, 2017 the Grafton County Commissioners filed a Joinder to the Parties’ Motion.
4. On April 3, 2017, the Forest Society filed a Joinder to the Parties’ Motion.

5. The April 25, 2017, Order denied the Parties' Motion, stating that "[i]t is not in the public interest to suspend the September 30, 2017, deadline and adjudicative hearing in this docket based on limited information that may or may not affect the Applicant's ability to site, construct, and operate the Project in accordance with the Certificate." Order on Motion to Temporarily Suspend Deliberations Pursuant to RSA 162-H:14, Docket No. 2015-06, at 4 (Apr. 25, 2017) (hereinafter, "Order").

6. Based on the Administrative Procedures Act, the SEC's Administrative Rules, and the Supreme Court Rules, to preserve this issue for appeal, the Movants file this Motion for Rehearing.

LEGAL STANDARD

7. A motion for rehearing serves a two-fold purpose: first, it permits the reviewing authority to reconsider its decision, and second, it may be a requirement prior to filing an appeal to the New Hampshire Supreme Court. N.H. CODE ADMIN. R. ANN. Site 202.29; N.H. Sup. Ct. R. 10.

8. Pursuant to RSA 541:3, "any person directly affected" by an order or decision has the right to file a motion for rehearing.

9. Site 202.29(c) allows such a party to submit a motion for rehearing within 30 days of the decision or order.

10. The Movants are directly affected by the SEC's April 25, 2017, Order, because the relief sought also by the Movants was denied.

11. A party may apply for a rehearing by "specifying in the motion all grounds for rehearing," RSA 541:3, and "set[ing] forth fully every ground upon which it is claimed that the decision or order complained of is unlawful and unreasonable." RSA 541:4.

12. The SEC rule on rehearing further provides that a motion for rehearing shall: “(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; (3) State concisely the factual findings, reasoning or legal conclusion proposed by the moving party; and, (4) Include any argument or memorandum of law the moving party wishes to file.” N.H. CODE ADMIN. R. ANN. Site 202.29(d).

ANALYSIS

13. The SEC’s determination that it is not in the public interest to suspend deliberations based on “limited information” it determined “may or may not affect the Applicant’s ability to site, construct, and operate the Project in accordance with the Certificate” is based on an error of reasoning that should be reconsidered. Order, at 4.

14. The SEC erred when it determined the information presented in the Parties’ Motion was limited.

15. The Parties’ Motion cites numerous statements and testimony, from multiple sources, that collectively establish that Hydro Quebec’s (“HQ”) ability to profitably sell power, and thus honor its current Transmission Services Agreement obligations to pay for construction of the line, is dependent on being selected in the Massachusetts RFP at a certain price point.

16. Without ensuring HQ can satisfy its obligations, the Applicant cannot satisfy the statutory criteria that it have “adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.” RSA 162-H:16, IV(a).

17. If current evidence shows that the Applicant cannot satisfy the statutory standards, it is a waste of the time and resources of the parties and taxpayers, and thus against the public interest, to continue the proceeding while the Massachusetts RFP process is ongoing.

18. Therefore, the SEC's reasoning that this information was limited and that it was not in the public interest to suspend the deliberations until Fall 2017 is unreasonable. As such, a rehearing of the Motion is warranted.

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

a. Concur:

Appalachian Mountain Club
Conservation Law Foundation
Ammonoosuc Conservation Trust
Town of Canterbury
City of Concord
Town of Pittsburg
Town of Clarksville
Town of Stewartstown
Deerfield Abutters
Whitefield- Bethlehem Abutters

b. Object:

Applicants

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

WHEREFORE, the Forest Society respectfully requests that the Committee:

A. Grant this Motion;

B. Expediently schedule a rehearing on the Motion; and

C. 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: May 25, 2017

By: _____

Amy Manzelli, Esq. (17128)
Jason Reimers, Esq. (17309)
Elizabeth A. Boepple, Esq. (20218)
Stephen W. Wagner (268362)
3 Maple Street
Concord, NH 03301
(603) 225-2585
manzelli@nhlandlaw.com

GRAFTON COUNTY COMMISSIONERS

By their Spokesperson,



Date: May 25, 2017

By: _____ for

Lara Saffo, Esq.
Grafton County Attorney
3785 Dartmouth College Highway North
Haverhill, NH 03774
(603) 787-6968
lsafo@co.grafton.nh.us

**MUNICIPAL GROUP 1 SOUTH
MUNICIPAL GROUP 2
MUNICIPAL GROUP 3 NORTH**

**TOWNS OF NEW HAMPTON, LITTLETON,
DEERFIELD, PEMBROKE, AND ASHLAND
WATER & SEWER DISTRICT**

By and through its attorneys,
Mitchell Municipal Group, P.A.



Dated: May 25, 2017

By: _____ for

Steven M. Whitley, Esq., Bar #17833
25 Beacon Street East
Laconia, New Hampshire 03246
Telephone: (603) 524-3885
steven@mitchellmunigroup.com

**TOWNS OF BETHLEHEM, BRISTOL,
EASTON, FRANCONIA,
NORTHUMBERLAND,
PLYMOUTH, SUGAR HILL AND
WHITEFIELD**

By and through their attorneys,
Gardner, Fulton & Waugh, PLLC




Dated: May 25, 2017

By: _____ for

C. Christine Fillmore, Esq., Bar #13851
Gardner, Fulton & Waugh, PLLC
78 Bank Street
Lebanon, NH 03766-1727
Tel. (603) 448-2221
Fax (603) 448-5949
cfillmore@townandcitylaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this day, May 25, 2017, a copy of the foregoing Motion was sent by electronic mail to persons named on the Service List of this docket.



Amy Manzelli, Esq.