

**THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

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 for the Construction of a New High Voltage Transmission Line in New Hampshire

Docket No. 2015-06

MUNICIPAL GROUPS 1 SOUTH, 2, 3 SOUTH AND 3 NORTH'S OBJECTION TO MOTION FOR ADDITIONAL HEARING DATES AND TO EXTEND HOURS

Municipal Intervenor Groups 1 South, 2, 3 South and 3 North (collectively “the Referenced Municipal Groups”) object to the Applicant’s Motion for Additional Hearing Dates and to Extend Hours, stating as follows:

1. On June 23, 2017, the Applicants filed a motion seeking to add additional hearing dates in July, August and September, as well as to extend the hearing hours (including adding evening hours). As part of their argument for additional dates and extended hours, the Applicants allege that the schedule has been adjusted on a number occasions, the hearings are taking longer than anticipated and that “there is a serious risk that delay will become undue and unreasonable if additional measures are not taken.” Motion at Page 3, ¶6.

2. The above-referenced Municipal Groups object to the requested relief for a number of reasons. First, the suggestion that “delay will become undue and unreasonable” due to previous adjustments in the schedule is conclusory and lacks any basis. The previous adjustments in the schedule are primarily a result of the Applicants’ own conduct. The original Order on Pending Motions and Procedural Schedule anticipated that technical sessions would conclude on February 15, 2017, and that adjudicative hearings would commence following the pre-hearing conference on March 27 and 28, 2017. Order at 14. This procedural schedule was amended on October 28, 2016 to allow additional technical sessions through February 28, 2017

to address: (1) market economic issues; (2) local economic issues; (3) natural resources; and (4) aesthetics. The need for this new schedule resulted from delays in obtaining documents from the Applicants which were requested in data requests.

3. The procedural schedule was subsequently extended to allow technical sessions through March 17, 2017, and for a prehearing conference to be held on March 29, 2017 and April 28, 2017 to address Track 1 and Track 2 subjects. Order on Pending Motions dated March 1, 2017. The delays which resulted in the need to extend the dates of the technical sessions were not the fault of any of the Intervenors, but instead occurred due to “the reality of how complicated things can get when there are this many parties and witnesses, and this many issues to be litigated.” *Id.* at 5.

4. To date, the Intervenors in this case have worked diligently to accommodate the tight and aggressive deadlines. There are a significant number of parties in this case which necessarily results in a longer proceeding due to the number of witnesses involved in the hearings. However, with that being said, it should also be noted that the number of parties in this case is largely due to the nature of the proposed Northern Pass transmission line and its accompanying structures. The proposed transmission line is 192 miles in New Hampshire, passes through or abuts well over 1000 properties, and will have environmental and aesthetic impacts at many of those parcels.¹ The number of involved parties is understandable under the circumstances, as many municipalities and property owners are concerned about the impacts of the proposed Northern Pass transmission line and structures.

¹ A list of the abutting property owners is available at Appendix K of the Application for State of New Hampshire Department of Environmental Services Alteration of Terrain Permit for the Northern Pass Transmission Project New Hampshire dated October 25, attached as the Application as Volume 8, Appendix 6, ([Available Here](#)). The list of abutting parcels runs over 40 pages, and many of the pages list 40 to 50 parcels.

5. Request to Add Hearing Dates in July, August and September: The above-referenced Municipal Groups do not object to the addition of hearing dates after September. They do object to adding dates in July, August and September. At this time, the schedule for July and August has been issued for several months. There are a number of parties who have planned vacations in reliance on the schedule. Towards that end, Attorney Steven Whitley will be out of the country the week of July 24 and Attorney Christine Fillmore will be out of the country during the first two weeks of August.² Both of those attorneys purchased nonrefundable plane tickets. It is likely that other parties have made similar travel arrangements that cannot be modified.

6. The above-referenced municipalities believe a more appropriate response to the current scheduling dilemma would entail extending the September 30, 2017 decision deadline. The above-referenced Municipal Groups have worked diligently and in good faith to conduct efficient cross examination of Applicants' witness panels. In addition, all of the various parties and the Chair have worked to minimize duplicative cross examination. However, the scale of this project, the breadth of subject matter and the involvement of numerous *pro se* parties, among other reasons, require sufficient time to complete the Applicants' case-in-chief. Rather than maintain the current decision deadline that is inadequate for the remaining witnesses, the Committee should entertain extending the September 30, 2017 deadline to allow sufficient time to continue these proceedings without disadvantaging the parties.

7. Extend Hearing Hours: The request to extend the hours of the hearing is also unreasonable. The Intervenors have worked to abide by an aggressive schedule which has consumed a significant amount of time for the attorneys and *pro se* parties in this case. Due to

² Attorney Fillmore's plans were made before the addition of hearing dates on August 1, 2 and 3.

the fact that the Northern Pass transmission line is proposed to travel from the Canadian border to Deerfield, a large number of parties travel to the adjudicative hearings from throughout New Hampshire, including areas in Northern New Hampshire which can often exceed two hours of travel in each direction. The suggestion that the hearings be extended to later in the evening is unreasonable and unprecedented. It is most common for court proceedings and other adjudicatory hearings held by administrative agencies to conclude between 4:30 to 5:00 pm, regardless of the nature of the proceeding. The parties have already been required to attend technical sessions and adjudicatory hearings that sometimes last until 5:30 to 6:00 pm, if not later, which leaves a limited time for travel, trial preparation and other activities such as eating, sleeping and other work obligations.

8. It should be noted that the Intervening parties also do not have the same unlimited resources demonstrated by the Applicants. In this proceeding alone, the Applicants have filed appearances for a total of 10 attorneys, including Barry Needleman, Jeremy T. Walker, Adam Dumville, Rebecca S. Walkley, Thomas B. Getz, George Dana Bisbee, Christopher J. Allwarden, Marvin Paul Bellis, Elizabeth Maldonado and Viggo Fish. There are also other attorneys working for the Applicants who occasionally attend the hearings and assist in the proceedings at the Site Evaluation Committee, including Mark Hodgdon and Benjamin Hanna, as well as other unknown associates and numerous support staff. While the Applicants have significant resources to hire attorneys to assist with hearing attendance and pleadings, many of the Intervenor in this case are *pro se* and/or are represented by one attorney who is responsible for handling all aspects of the case (as is the case with the Referenced Municipal Groups). It is unfair to overburden the parties by extending the hearing hours further into the evening.

WHEREFORE, the Referenced Municipal Groups respectfully request that the Site Evaluation Committee:

- a. Deny Applicants' Motion for Additional Hearing Dates and Extend Hours; and
- b. Grant such further relief as it deems appropriate.

Respectfully submitted,

TOWNS OF NEW HAMPTON, LITTLETON,
DEERFIELD, PEMBROKE, and ASHLAND
WATER & SEWER DEPARTMENT

By and through its attorneys,

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Dated: June 26, 2017

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CITY OF CONCORD

Dated: June 26, 2017

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CERTIFICATE OF SERVICE

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

Dated: June 26, 2017

By: /s/ Danielle L. Pacik
Danielle Pacik, Esq.