

July 31, 2017

Via Electronic Mail & Hand Delivery

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

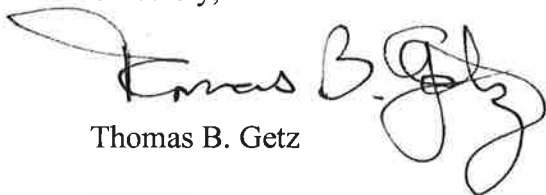
**Re: Site Evaluation Committee Docket No. 2015-06
Joint Application of Northern Pass Transmission LLC and Public Service Company
of New Hampshire d/b/a Eversource Energy (the "Applicants") for a Certificate of
Site and Facility
Motion for Clarification and/or Rehearing Order on Motion to Compel Production
of Co-Location Study**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of a Motion for Clarification and/or Rehearing Order on Motion to Compel Production of Co-Location Study.

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**

**MOTION FOR CLARIFICATION AND/OR REHEARING
ORDER ON MOTION TO COMPEL PRODUCTION OF CO-LOCATION STUDY**

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 respectfully request clarification and/or rehearing of the June 30, 2017 Order Granting Lagaspence Realty’s Motion to Compel Production of Co-Location Study (“Co-Location Study Order”). As explained below, the Applicants seek confirmation that no additional actions are required with respect to the Co-Location Study.

1. On June 15, 2017, Lagaspence Realty filed a motion to compel, seeking production by a date certain of the assessment the Applicants had undertaken concerning potential electrical interactions the Project may have with the Portland Natural Gas Transmission System (“PNGTS”) pipeline (“Co-Location Study”). Lagaspence Realty also asserted that the Co-Location Study should be “presented with sworn testimony of its authors and cross-examination in open Committee *if necessary*.” (Emphasis supplied.)

2. The Applicants objected on June 26, 2017, pointing out that the Lagaspence Realty motion to compel was unnecessary and indicating that the Co-Location Study would be submitted by June 30, 2017. In the first place, it was not necessary to compel the Co-Location Study because Mr. Bradstreet had already testified for the Applicants that it would be provided.

See Transcript Day 11, Afternoon Session (June 1, 2017) at p.189. The Applicants also explained the purpose of the Co-Location Study and the appropriate use of it in the context of the authority to be delegated to, and concurrently exercised by, the Public Utilities Commission, which obviates further testimony and cross-examination.

3. The Presiding Officer concluded at p. 4 of the Co-Location Study Order that the Lagaspence Realty request to produce the study by a date certain so that it could be “analyzed and utilized in these proceedings” was reasonable. He then granted the Lagaspence motion to compel and directed the Applicants to produce the Co-Location Study, which they had, in fact, done consistent with prior representations. In this motion, the Applicants ask that the Presiding Officer confirm that the Co-Location Study Order was limited to requiring the production of the Co-Location Study. Alternatively, in the event that the Co-Location Study Order determined anything further, the Applicants seek rehearing for the reasons discussed below.

4. 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).

5. 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).

6. In the first place, the Lagaspence Realty motion to compel was unnecessary, as a matter of fact, because the Applicants did not object to the production of the Co-Location Study. Secondly, the motion was rendered moot when the Co-Location Study was submitted, as promised, on June 30, 2017, so there was no reason to compel its production. Thirdly, the Co-Location Order is incorrect as a matter of law because it analyzes the issues as if there were a discovery dispute, which was not the case. Consequently, the Co-Location Study Order was premised on combined errors of fact, reasoning and law.

7. In addition, to the extent the Co-Location Study Order is meant to require supplemental testimony and cross-examination on the Co-Location Study, it overlooks the testimony already given by Messrs. Bowes and Bradstreet, and it mistakenly conceives obligations related to the Applicants’ burden of proof. In addition, the Applicants, as noted above, do not dispute the relevance of the Co-Location Study but dispute the manner in which Lagaspence Realty would have it “analyzed and utilized.” Further testimony and cross-examination is not necessary.

8. In conclusion, the Applicants ask that the Presiding Officer make clear that the Co-Location Study Order was limited solely to requiring the “production” of the Co-Location Study. Such production is a sufficient means for analyzing and utilizing the information in this proceeding, along with delegation of authority to the Public Utilities Commission, as necessary, pursuant to RSA 162-H:4, III and III-a to monitor the Applicants’ construction activities.

9. The Non-Abutting Property Owners Bethlehem to Plymouth, and the Dummer, Stark and Northumberland Abutters, including Lagaspence Realty, object to the Applicants' Motion.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Clarify and/or grant rehearing as requested herein; 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 Its Attorneys,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: July 31, 2017

By:



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Certificate of Service

I hereby certify that on the 31st day of July, 2017, an original and one copy of the foregoing Motion was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon SEC Distribution List.



Thomas B. Getz