

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

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**

Motion to Reconsider and Modify September 12 Order on Cross-Examination

The Deerfield Abutters ask the Hearing Officer to reconsider his decision on friendly cross-examination and to modify the Order and states:

In its decision of September 12, 2017, the hearing officer orders each Intervenor to produce by September 22, a mere eight days away, a list of each witness or witness panel, the Intervenor intends to cross and include layers of information regarding the cross-examination. This Order creates an enormous and onerous burden on each Intervenor who must:

1. continue to fully participate in five days of full day hearings before the SEC over the next eight days;
2. review and determine every fact and position the Intervenor intends to present to the SEC;
3. review prefiled testimony and other information relating to **every** remaining witness in the proceeding;
4. determine whether every “position” in their testimony is consistent with their own;
5. if a witnesses’ position is adverse to their own, identify and state all reasons as such;
6. if the witness is not adverse, the Intervenor must then identify every area of cross-examination;
7. Intervenor must also identify and state **why** every area of cross-examination is necessary;
8. Intervenor must do all of this in eight days (five of which will be spent at the hearing) and do so without legal counsel.

ARGUMENT

The Hearing Officer’s Order on friendly cross-examination is unfair, unreasonable and unjust. And it undermines due process for the Intervenor. First, it inherently limits the Intervenor’s right to cross examine in that items left off the “list” will be prohibited, eliminating the Intervenor’s ability to be responsive to witnesses’ testimony. Adaptability, flexibility, and surprise are the very core of cross-examination. Moreover,

the extensive scope of the “list” handcuffs Intervenor, requiring that they solidify trial strategy in a few short days.

Second, Applicants’ stable of lawyers gains an unfair advantage since the Intervenor will provide an exact roadmap of her case well in advance.

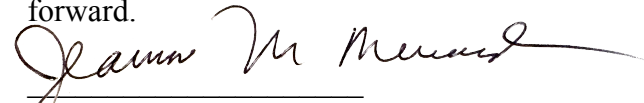
Intervenor are not delaying the process – they are earnestly and legitimately engaged in the review of an unprecedented, complex project that spans 192 miles and involves multiple forms of construction in a varied landscape. Applicants filed an application with over 27,000 pages and have produced thousands of pages since then. Throughout these proceedings, the Intervenor group members diligently and successfully respected previously covered subject matter to avoid repetitive questions.

Intervenor have **legitimate interests at stake** and should not be denied their opportunity to fully participate in these proceedings because they have been given a herculean task to accomplish in eight days. Intervenor, most without legal counsel, have made great sacrifices in their work and personal lives to be at the table.

Intervenor acknowledge the Hearing Officer’s concern about delay but contends there are far less draconian steps that may be taken to speed the proceeding and that are fair and reasonable for all parties. Although it’s possible the Intervenor may have overestimated the time needed for cross, they do so based on an abundance of caution and the recognition that timing is fluid. On many occasions, Intervenor’s cross-examination was eliminated or reduced because the issues were covered by other parties.

The Hearing Officer, adept at moving the proceedings along, can continue to limit repetitive or inappropriate cross-examination. Intervenor propose that the Hearing Officer modify his September 12, 2017 decision and order the parties to reassess and resubmit any change in their time requests every two weeks going forward. This would allow parties to reduce the time needed based on cross-examination questions that have been asked. It also provides the Hearing Officer and parties with a more accurate view of the timing of the proceeding. If there is additional delay, the Hearing Officer can revisit the issue.

The Deerfield Abutters respectfully ask that the Motion to Reconsider be GRANTED and that the Hearing Officer MODIFY the Order on Friendly Cross-examination, order the parties to reassess and resubmit any change in their time requests every two weeks going forward.



Jeanne Menard on behalf of the Deerfield Abutters

I certify that the above Motion has been forwarded to the distribution list.



Jeanne Menard

cc: Distribution List

September 15, 2017 Amendment

The following parties concurred with the Deerfield **Motion to Reconsider and Modify September 12 Order on Cross-Examination** filed on September 14, 2017. No objections were received.

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| Municipal Group 1-North |
| Municipal Group 1-South |
| Municipal Group 2 |
| Municipal Group 3-North |
| Municipal Group 3-South |
| Grafton County Commissioners |
| Dummer, Stark, and Northumberland Overhead - Abutting Property Owners |
| Whitefield, Dalton, and Bethlehem - Abutting Property Intervenors |
| Bethlehem to Plymouth - Abutting Property Owners (underground portion) |
| Bethlehem to Plymouth - Non- Abutting Property Owners (underground portion) |
| Ashland, Northfield, Canterbury, Allenstown, and Concord - Abutting Property Owners |
| Ashland to Deerfield - Non- Abutting Property Owners |
| Pemigewasset River Local Advisory Committee |