

November 16, 2017

Via Electronic Mail & Hand Delivery

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

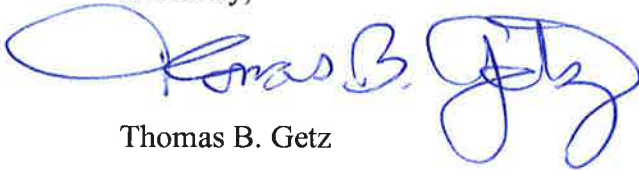
**Re: Site Evaluation Committee Docket No. 2015-06
Joint Application of Northern Pass Transmission LLC and Public Service Company
of New Hampshire d/b/a Eversource Energy (the "Applicants") for a Certificate of
Site and Facility
Objection to SPNHF Motion for Rehearing of Rulings from Bench**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of an
Objection to Society For The Protection of New Hampshire Forests Motion For Rehearing Of
Rulings From Bench.

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 SOCIETY FOR PROTECTION OF NEW HAMPSHIRE FORESTS’
MOTION FOR REHEARING OF RULINGS FROM BENCH**

Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (the “Applicants”), by and through their attorneys, McLane Middleton, Professional Association, hereby object to the pleading filed by the Society for the Protection of New Hampshire Forests (“SPNHF”) on November 6, 2017. SPNHF starts by saying that it is moving for rehearing of the Presiding Officer’s “rulings on the scope of certain intervenors and Counsel for the Public’s cross-examination” beginning with the hearings on October 6, 2017. SPNHF later asserts more expansively that the Presiding Officer “has issued numerous rulings from the bench that directly or indirectly restrict the scope of Counsel for the Public’s and Opposition Intervenors’ direct and cross-examination rights.”

As explained below, SPNHF’s pleading is superfluous and again fails to demonstrate good cause for rehearing because, among other things, it is not clear what injury it has incurred. The crux of the complaint seems to be that the Presiding Officer has done what he said he was going to do in limiting a good deal of unnecessary friendly examination.¹ Neither is it clear what, if any, remedy SPNHF seeks at this juncture. It concedes that its underlying motion for rehearing was denied and it states that the purpose of rehearing is to preserve issues for appeal.

¹ The Applicants’ justifiable concerns about the abuse of friendly examination were confirmed on the record on November 9, 2017, Day 59, when Mr. Powell, a witness for the Whitefield to Bethlehem Abutters Group, and Mr. Jodoin, a witness for the Town of Pembroke, both admitted that they had discussed in advance with the Deerfield Abutters Group the topics that would be covered in their respective examinations.

Thus, this pleading fails to state a basis for specific relief and should therefore be denied as simply a continuing argument against limitations on friendly examination.

I. BACKGROUND

1. In the September 12, 2017 Procedural Order, the Presiding Officer recognized that cross examination is normally conducted of witnesses who take an adverse position on a relevant issue and that “friendly cross” concerns examination of witnesses of an allied, or non-adverse party. Furthermore, he made clear that examination of witnesses with whom one agrees, insofar as it repeats points made in prefiled testimony or provides an opportunity to testify about matters not addressed in prefiled testimony, is not necessary to ensure a full and true disclosure of the facts. Procedural Order, p. 2.

2. On October 2, 2017, SPNHF sought rehearing, arguing, among other things, that New Hampshire law does not recognize a distinction between cross-examination and friendly examination, and that the Procedural Order unlawfully limits cross-examination.² The Presiding Officer issued an Order Denying Motion for Rehearing on October 24, 2017, pointing out that the “Procedural Order does not preclude any line of cross examination.” In other words, the Presiding Officer did not categorically limit friendly examination. Instead, he observed that objections to friendly examination “have been resolved on a question-by-question basis.”

3. SPNHF now appears to challenge both the “scope” of cross-examination, i.e., the approach the Presiding Officer set forth in the September 12 and October 24 orders for handling friendly examination, and the way in which he has exercised his discretion to limit friendly

² As required by the Procedural Order, the intervenors provided lists on October 2 and 13, 2017, that confirmed the hazards of friendly examination that the Procedural Order intended to address. It was clear that the intervenors hoped to use friendly examination to repeat points already made, provide witnesses the opportunity to testify about matters that they should have included in their pre-filed testimony, and provide witnesses the opportunity to offer sur-rebuttal testimony. The Presiding Officer acknowledged that many parties did not take seriously the effort that had been assigned them and that the information was generally not helpful. Day 50, Afternoon Session, Tr. pp. 52-53. *See also* Order Denying Motion for Rehearing, p. 6 (October 24, 2017).

examination on a question-by-question basis. Furthermore, at p. 4 of its pleading, SPNHF makes a general complaint on behalf of Counsel for the Public and all “Opposition Intervenors” that the Presiding Officer has exercised his discretion inconsistently and in a manner that directly or indirectly restricts the scope of those parties’ direct and cross-examination rights. SPNHF also makes a single specific complaint on its own behalf concerning an objection by the Applicants that the Presiding Officer sustained to a SPNHF question asking Counsel for the Public’s witnesses whether they had “concerns about the potential co-location of the proposed project with the Portland Natural Gas pipeline.” Finally, SPNHF states that it is filing its motion to preserve the issues it raised orally during the October 23, 2017 hearing, and it also states that the Presiding Officer directed it “to raise its concerns in a motion.”³

4. The purpose of rehearing “is to direct attention to matters said to have been overlooked or mistakenly conceived in the original decision.” *Dumais v. State Pers. Comm’n*, 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. *O’Loughlin v. New Hampshire Pers. Comm’n*, 117 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).

II. DISCUSSION

5. SPNHF challenges the Presiding Officer’s rulings on the scope of cross-examination and complains that he has improperly restricted the scope of direct and cross-examination. SPNHF also says that the Presiding Officer’s rulings are not consistent, that they

³ The Applicants question whether this pleading qualifies as a motion for rehearing under RSA 541:3 inasmuch as it appears merely redundant to SPNHF’s October 2, 2017 motion for rehearing.

are not supported by law, and that the parties were not provided clear guidance.⁴ See pp. 1, 4 and 6. The Applicants attempt to unravel the claims below.

6. As noted above, it appears that SPNHF is making both (1) a general complaint about the scope of cross examination, as well as direct examination, that the Presiding Officer has determined to be appropriate, and (2) a complaint about specific rulings the Presiding Officer has made to limit friendly examination. With respect to the general complaint about the scope of cross-examination, SPNHF has already been denied rehearing. As a consequence, this motion is duplicative, and an improper reprise of its October 2, 2017 motion for rehearing, insofar as it disputes the approach set forth by the Presiding Officer for addressing friendly examination. To the extent this motion may arguably present a cognizable dispute, it is limited to whether the Presiding Officer has abused his discretion in a particular ruling that sustained an objection to SPNHF's question about co-locating the Portland Natural Gas pipeline.

Direct Examination

7. With respect to direct examination by CFP and intervenors, which is a claim separate from cross-examination, SPNHF characterizes the actions of the Presiding Officer at the hearing on the morning of October 6, 2017, (Day 44, Morning Session) as, "for the first time in this proceeding," making it "known that he *expected* Counsel for the Public and Opposition Intervenors to conduct supplemental direct examination of their witnesses during the hearing." (Emphasis supplied.) The more accurate characterization is that it became apparent then for the

⁴ For not having been provided clear guidance, SPNHF summarizes reasonably well on p. 5 of its motion for rehearing the parameters set forth by the Presiding Officer in the September 12, 2017 Procedural Order and October 24, 2017 Order Denying Motion for Rehearing.

first time that the Presiding Officer would *permit* Counsel for the Public and the Intervenors to elicit oral sur-rebuttal testimony from their respective witnesses as part of direct examination.⁵

8. The discussion of direct examination on the record is difficult to disentangle because it appears from the transcript that the participants were using terms differently and talking past one another with respect to inquiring about or responding to new information and/or responding to the Applicants' supplemental testimony. *Id.*, pp. 113-133. For purposes of this pleading, however, the salient point is that the Presiding Officer did not *restrict* the scope of direct examination as alleged by SPNHF but instead *expanded* it to permit Counsel for the Public and intervenors to rebut orally the supplemental testimony filed by the Applicants six months prior.

9. The Applicants continue to maintain, as laid out at the hearing on October 12, 2017, Tr. Day 46, Morning Session, pp.7-9, and discussed in the October 11, 2017 objection to SPNHF's motion for rehearing of the Procedural Order, that the Presiding Officer was wrong to permit practically unlimited oral sur-rebuttal testimony as part of direct examination. Doing so denied the Applicants the opportunity to adequately prepare cross examination and could have been avoided if the parties had timely asked for permission to submit such testimony at some point during the months leading up to the hearings. SPNHF, however, contends, under the cloak of cross-examination, that it should be able to extend the violation of the Applicants' due process rights another step further to allow it as a third party to ask CFP witnesses questions and elicit wholly new opinions about matters that the witnesses did not address in their prefiled testimony, which does not constitute rebuttal. This is a further example of misusing friendly examination at the Applicants' expense. Allowing such examination is procedurally unfair to the Applicants;

⁵ Tellingly, when asked by the Presiding Officer why he did not ask Kavet and Rockler certain questions during direct, Mr. Pappas responded, appropriately, that "[d]irect testimony is prefiled."

disallowing such examination is not unfair to SPNHF inasmuch as there is no right to cross-examine a witness, to which one is not adverse, about a topic to which the witness has not testified.

Friendly Examination

10. SPNHF's argument that the scope of cross-examination by Counsel for the Public and intervenors has been unfairly restricted, could not be more wrong. If anything, the Presiding Officer has been unnecessarily lenient in permitting friendly examination by Counsel for the Public and intervenors. In his decisions whether to overrule or sustain the Applicants' objections to particular questions, in virtually every case the Presiding Officer would have been acting within the bounds of his discretion if he had sustained the objection. If there is a procedural defect or due process claim, it relates to the friendly examination that the Presiding Officer allowed, not the friendly examination he disallowed.⁶

11. SPNHF continues to frame its complaint in terms of cross-examination but the issue is more accurately an issue of the proper scope of friendly examination, which can be framed in at least two ways. As the Applicants expressed the issue previously, friendly examination is by definition not cross-examination because the questioner is not adverse to the witness. In *N. Plains Res. Council v. Bd. of Nat. Res. & Conservation*, the Montana Supreme Court held that "examination by the opponents of other opponents' witnesses would hardly meet the true objectives of cross-examination including the main one, to test the truth of the witness' statements." 181 Mont. 500, 537 (1979). Alternatively, friendly examination may be restricted

⁶ SPNHF also contends at p. 4 of its motion that parties represented by counsel seem to be subject to the most stringent limits on their examination. Even if that were the case, it does not constitute an abuse of discretion by the Presiding Officer. It is not uncommon for *pro se* litigants to be given some latitude that might not be extended to a trained professional. In any case, there is no harm to SPNHF, CFP or any other intervenor from such a circumstance.

when it is not “necessary to a full and true disclosure of the facts.” *Id.* at 531. Ultimately, there is no right to friendly examination, though the Presiding Officer has the discretion to allow it.

12. The test enunciated by the Presiding Officer with respect to friendly examination is applicable, however, irrespective of how the issue is framed. As set forth in his October 24, 2017 Order Denying Rehearing, friendly examination is “improper when it is used as a means to simply repeat prefiled testimony or when it is used to introduce new opinions and/or testimony that should have been included in prefiled direct testimony.” The test really has two separate prongs. The first has the effect of excluding evidence that is repetitive, while the second has the effect of preventing a party from eliciting new testimony from a witness that the witness could not have provided on direct examination because it would constitute late-filed testimony. The common element in both cases is preventing aligned parties from manipulating the process to bolster one another’s cases or supplement the record in a way that would be prejudicial to the party with the burden of proof. *See N. Plains Res. Council v. Bd. of Nat. Res. & Conservation*, 181 Mont. at 537 (stating: “How examination of each other’s witnesses could be termed ‘cross-examination’ under the circumstances is difficult to understand. In fact, any such interrogation would really have amounted to nothing more than direct or redirect examination because the sole aim and purpose would have been to bolster the testimony already produced on the direct examination.”)

13. In accord with the New Hampshire Administrative Procedure Act, the Presiding Officer can impose limits on cross-examination pursuant to RSA 541-A:32, III (b), can exclude evidence pursuant to RSA 541-A:33, II, and can refuse to allow cross examination if it is not required for a full and true disclosure of the facts pursuant to RSA 541-A:33, IV. Friendly examination, however, can be conceptualized (1) as something different from cross-examination

in the first instance because it is not adverse, or (2) as a sub-category of cross-examination that in the circumstances of aligned or non-adverse parties (a) leads, in most cases, to questions that bolster and support testimony already produced, which is not necessary for a full and true disclosure of the facts, or (b) acts as a vehicle for aligned/non-adverse parties putting testimony on the record orally for the first time at hearing, thus denying the party with the burden of proof the opportunity to conduct discovery or prepare cross-examination.

14. The Presiding Officer refrained from categorically preventing friendly examination and, despite the requirement that intervenors submit lists identifying areas where friendly examination was necessary, he did not require intervenors in the first instance to demonstrate why friendly examination should be allowed. Rather, the burden was placed on the Applicants to object to particular questions and provide a basis for disallowing such questions. Intervenors and CFP, as the case may be, were given the opportunity to respond to the Applicants' objection. Insofar as the Presiding Officer has not exercised his discretion to sustain objections to friendly examination, SPNHF has it exactly backwards with respect to who has been harmed. The Presiding Officer could have sustained far more objections, i.e., disallowed much more friendly examination. Consequently, to the extent there has been harm, it is the Applicants who have been harmed, not the intervenors or Counsel for the Public.

15. In addition, SPNHF appears to take umbrage at the notion that CFP may be treated as friendly, i.e., not adverse to, or aligned with, SPNHF and the Opposition Intervenors, suggesting that the Presiding Officer has, in some incorrect way, determined that CFP is a "cohort" with the parties who oppose the Project. To the extent that the Presiding Officer has sustained the Applicants' objections to questions by CFP, the Presiding Officer is simply applying the rules that govern the proceeding evenly across the board. CFP may have a statutory

role but that role does not insulate it from practices applicable to all parties, nor give it license to overstep the bounds of fair inquiry or introduce testimony anytime it pleases.

16. Inasmuch as SPNHF is not adverse to Counsel for the Public or to other intervenors, examination of those witnesses would be friendly cross and any restriction on such examination would not deny them due process. What underlies SPNHF's motions is that it seeks to make its case through the witnesses for a party to whom it is not adverse, namely, CFP and other intervenors, by positioning such witnesses to (a) bolster their positions, which confirms the Presiding Officer's observations regarding "tactics that are unnecessary to ensure a full and true disclosure of the facts," and (b) supplement their testimony in a manner incompatible with the approved procedural schedule and due process.

17. At bottom, the approach to friendly examination employed by the Presiding Officer is fully consistent with the requirements of due process. Judge Friendly determined, in *National Nutritional Foods Association v. Food and Drug Administration*, 504 F. 2d 761 (1974), that cross-examination necessary for a full and true disclosure of facts extended to parties that were adverse but that examination by parties that are not adverse may be curtailed. *See also N. Plains Res. Council v. Bd. of Nat. Res. & Conservation*, 181 Mont. 533-35 (noting that cross-examination may be limited to witnesses of the opposing party or adverse party and that administrative bodies must be allowed, and encouraged, "to take steps to avoid repetitious or aimless cross-examination.")

III. CONCLUSION

18. The Presiding Officer has broad discretion to impose limitations on an intervenor's participation in a proceeding so long as the limitations are "not so extensive as to prevent the intervenor from protecting the interest which formed the basis of the intervention."

RSA 541-A:32, IV. Here, SPNHF's sole personal claim is that the Presiding Officer wrongly sustained the Applicants' objection when SPNHF asked CFP's witness: "So do you have concerns about the potential co-location of the proposed project with the Portland Natural Gas pipeline?" Tr. Day 50, Afternoon Session, p. 45. In limiting SPNHF's pursuit of this line of inquiry, the Presiding Officer stated: "If they [CFP witnesses] had opinions about it, they were free to express them in their prefiled testimony. I'm not going to expand the scope of their prefiled testimony." Clearly, SPNHF was not conducting cross examination inasmuch as the CFP witnesses had not submitted testimony about the pipeline and, furthermore, SPNHF is not adverse to CFP. *Id.*, p. 47.

19. SPNHF was attempting through friendly examination to elicit testimony from the CFP witnesses that the witnesses were not in a position to offer as part of their direct examination because the filing deadline for such testimony had long passed, and the issue did not involve something new, such as the Applicants' exception requests to the Department of Transportation.⁷ Despite what it asserts, SPNHF does not have a due process right to ask CFP's witnesses questions about matters concerning which they have not testified. Moreover, there was nothing new about the subject matter of the question as demonstrated by the attached discovery requests and responses from 2016. See Attachment A.

20. SPNHF's counsel attempted to box the Presiding Officer into a corner when she challenged his ruling. Her theory seems to be that the Presiding Officer could only sustain an objection if what the witnesses thought "about the Portland Natural Gas pipeline is irrelevant or immaterial or unduly repetitious." Tr. Day 50, Afternoon Session, pp. 46-47. Clearly, the Presiding Officer can exclude evidence that is irrelevant, immaterial or unduly repetitious, but

⁷ The one arguably new thing that SPNHF asked the CFP witnesses about was the *Preliminary Interference Assessment* (referred to as the co-location study) performed for NPT by Corpro Canada, Inc. and filed on June 30, 2017. The witnesses indicated that they had not reviewed it.

that is not the sole basis, and he sustained the objection “on the grounds that if they had opinions about it [the pipeline], they needed to be expressed in their prefiled testimony.” *Id.* The ruling was entirely proper inasmuch as SPNHF was not reviewing the witnesses’ prefiled direct or supplemental testimony to determine its veracity and accuracy, or their depth of knowledge. Instead, SPNHF was trying to get testimony into the record through the side door.

21. Incredibly, SPNHF also argues that by sustaining the Applicants’ objection to the question about co-locating the pipeline that the Presiding Officer unlawfully shifted the burden of proof away from the Applicants. SPNHF contends that the Applicants had provided insufficient information about the pipeline in their Application and that it was fundamentally unfair to expect witnesses for CFP or intervenors to opine in prefiled testimony. SPNHF is wrong on the facts and the law. First, CFP had sufficient opportunity to submit prefiled testimony stating an opinion relative to co-location of the pipeline given the discovery on the issue that was conducted well in advance of the deadline for testimony. See Attachment A. Second, as the Presiding Officer has made clear repeatedly in the context of the Grafton County Commissioners’ recurring attempts to halt the proceedings, SPNHF and others can argue that the Applicants have failed to carry their burden of proof and if the Subcommittee agrees it can deny the Application. Finally, SPNHF misconstrues the situation if it believes it is SPNHF’s due process right (or a “burden” it can take unto itself) to use friendly examination to assist CFP in putting testimony into the record at the last minute.

22. In conclusion, the Presiding Officer has not overlooked or mistakenly conceived anything. Ironically, SPNHF, at p. 14 of its pleading, characterizes the latest phase of the proceeding as having “been plagued by cross-examiners trying to ask the same types of questions they asked of the Applicants’ witnesses, only to be limited in doing so.” SPNHF hence succeeds

in making the Presiding Officer's point inasmuch as the "cross-examiners" are being correctly limited in questioning parties to whom they are not adverse. The Presiding Officer has sustained objections to questions that are not necessary for a full and true disclosure of the facts and, as a consequence, there is no infirmity in the way he has exercised his discretion to allow or disallow friendly cross. What SPNHF and others seek to do is use another party's witnesses to pile on in a way that repeats points already made, gives aligned witnesses the opportunity to testify orally on matters they should have included in written testimony, and, ultimately, have the last word. By rejecting such tactics the Presiding Officer does not violate the due process rights of SPNHF, CFP, or other intervenors.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Deny the Motion for Rehearing; and
- B. Grant such further relief as is deemed just and 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: November 16, 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 16th of November, 2017, an original and one copy of the foregoing Objection was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.



Thomas B. Getz

ATTACHMENT A

Responses to Counsel for the Public Data Requests Uploaded to ShareFile August 5, 2016

EXP 1-3 Please produce a copy of all technical reports (studies, specifications, plans, procedures, drawings) that that evidence, describe, analyze or relate to the electro-magnetic compatibility between the Project and adjacent facilities, such as pipelines, railroads, and other utilities.

Response: The Applicants object to this question as the phrase “electro-magnetic compatibility” is vague and ambiguous. Notwithstanding the objection, the Applicants answer as follows:

Pipeline safety regulations are included in Title 49 of the Code of Federal Regulations (“CFR”), Parts 190-199. The Project will be designed, constructed and operated to meet or exceed all applicable regulatory requirements. A natural gas pipeline was constructed in the existing electric transmission right-of-way where portions of the NPT Line are proposed and has been operating in the current configuration since 2004. As part of the detailed design, there will be further coordination with the pipeline owner/operator so that all facilities continue to operate safely in the shared right-of-way. During the detail design phase, the Applicants will also be studying compatibility issues of adjacent electrical and communications lines or facilities within the Project area. The following references will be utilized to evaluate electro-magnetic compatibility: · National Electric Safety Code (NESC) · Electric Power Research Institute (EPRI) EL-3106 · Institute of Electrical and Electronics Engineers (IEEE) Standard 80 · National Association of Corrosion Engineers (NACE) SPO177-2014 · American Society of Mechanical Engineers (ASME) B31.8 · American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual for Railway Engineering

The Applicants have also submitted copies of EMF studies in the Application: Appendices 37 & 38. Further, the Applicants have not produced any technical reports or studies for construction of the Project as they relate to railroads. During the detail design phase, the Project will assess electro-magnetic compatibility with railroad facilities that cross or are directly adjacent to the Project.

EXP 1-75 Please identify all natural gas pipelines located with the Project's ROW in the Stark to Bethlehem section of the Proposed Route, describe all measures that will be taken to ensure the safety of co-locating the Transmission Line in the ROW where natural gas pipelines are located, and produce a copy of all documents that describe, discuss or analyze the co-location of a natural gas pipeline and the Transmission Line within the ROW, including without limitation, the Joint Use Agreement.

Response: The Project is aware of the Portland Natural Gas Transmission System (PNGTS) that is co-located within the overhead transmission corridor in Stark and Northumberland. Please also see the response to Non-Abutting Property Owner Group 2’s Data Request NA2 1-7 and the joint use agreement with PNGTS provided in response to this request.

Responses to Abutters Dummer, Stark and Northumberland Uploaded to ShareFile July 15, 2016

A2 1-2 Please identify each and every natural gas and other pipeline related facility that is located parallel with or in such proximity to the existing transmission and distribution infrastructure on the easements traversing Dummer, Stark and Northumberland that falls within the regulatory ambit of Puc 506.02 Construction, Operation and Maintenance.

Request for Documents: Please attach each and every document that supports your response to this data request.

Response: The Applicants object to this question insofar as it asks for information related to natural gas or other pipelines outside of the Applicants' easements in the Towns of Dummer, Stark, and Northumberland because such information is not relevant to this proceeding and is not reasonably calculated to lead to the discovery of admissible information. The Applicants also object as the meaning of "other pipeline related facility" is vague and ambiguous.

Notwithstanding the objections, the Applicants answer as follows:

Portland Natural Gas Transmission System (PNGTS) owns a 24 inch gas pipeline that is located within the existing Eversource NH transmission rights-of-way in the subject towns. The pipeline parallels the existing transmission facilities and has other associated equipment to operate and maintain the pipeline in and adjacent to the shared rights-of-way.

The PNGTS as-built record drawings provided by PNGTS to Eversource NH have been uploaded to the ShareFile Site in response to this request.

A2 1-3 Please provide the precise specifications of the relocation of the existing transmission and distribution infrastructure should the Northern Pass be constructed on the easements traversing Dummer, Stark and Northumberland. Include pole specifications, pole material, height, cross arm width, number and gauge of wires, voltage, whether alternating or direct current, number of poles and the exact location of the poles as scaled by PSNH.

Request for Documents: Please attach each and every document that supports your response to this data request.

Response: Relocated transmission structures are proposed to be tubular steel vertical monopole configurations. A geometric example is provided in Exhibit 4, Sheet 3 of the Project DOE Application, included as Appendix 7 of the SEC Application. In the subject towns, the relocated 115 kV AC structures will range from 74.5 to 110.5 feet above grade. There are three energized conductors and one shield wire conductor. Energized conductors will be 795 ACSR 27/6 and the shield wire conductor will be an optical ground wire (OPGW) approximately 0.5 inches in diameter. There are 159 proposed relocated 115kV structures in the subject towns. Specific locations and heights of the proposed relocated structures can be found in the Application, Appendix 1 - Project Maps. Relocated distribution structures are proposed to be similar to the existing construction. One circuit is proposed to be installed on the relocated 115kV structure described above. The second distribution circuit will be constructed with the similar description provided for the existing facilities in A2 1-1.

Information supporting these responses is contained in the Application: Appendix 7 - DOE Application, and/or the Appendix 1 - Project Maps.

Response to Non-Abutters Stark to Bethlehem Uploaded to ShareFile July 14, 2016

NA2 1-7 Please provide specific data regarding the potential negative impact of co-location of an existing natural gas line within proposed the 250' wide Coos Loop ROW between Dummer and Northumberland. Please comment specifically on the information on this issue in two recent studies: 1) "Criteria for Pipelines Co-Existing with Electric Power Lines", INGAA Foundation Inc. (Interstate Natural Gas Association of America, Washington, DC) FINAL Report No. 2015-04, October 2015 and 2) the Canadian Association of Petroleum Producers Report: "Influence of High Voltage DC Power Lines on Metallic Pipelines." (October 2014).

Response: The Applicants object to the request to the extent that it requires the Applicants to develop additional data that is not presently in the care, custody, or control of the Applicants and is outside the scope of the Applicants' responsibilities in this docket. The Committee has already addressed similar requests for information not presently in the possession of an Applicant and held that such information is not discoverable. *See Application of Antrim Wind Energy, Order on Outstanding Motions*, Docket No. 2012-01, p. 11-12 (August 22, 2012) (Denying a request for the Applicant to provide a residential analysis requested by an intervenor group, the Committee held that "[i]t is not necessary to require the Applicant to undertake additional study merely because an intervenor group requests the study.". *See also id.* At 15 (Data requests that are "not for data...presently in the possession of the Applicant ... are not true data requests. Rather, it is a claim that the information provided ... is incomplete.").

Notwithstanding this objection, the Applicants answer as follows: The ROW described in this question is 150' wide, not 250'. The Applicants are aware of the reports and are in the process of reviewing them. The Project will be designed, constructed and operated to meet or exceed all applicable regulatory requirements. Specifically, pipeline safety regulations are included in Title 49 of the Code of Federal Regulations (CFR), Parts 190-199. Additionally, a natural gas pipeline was constructed in an existing electric transmission right-of-way and has been operating in the current configuration since 2004. As part of the detailed design, which is yet to occur, there will be further coordination with the pipeline owner/operator so that all facilities operate/continue to operate in the shared right-of-way.