

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

**MOTION OF THE SOCIETY FOR THE PROTECTION OF NEW  
HAMPSHIRE FORESTS FOR REHEARING OF THE OCTOBER 25, 2017,  
ORDER DENYING MOTIONS TO COMPEL APPLICANTS' UNREDACTED  
BID INTO THE MASSACHUSETTS REQUEST FOR PROPOSALS**

The Society for the Protection of New Hampshire Forests (the "Forest Society"), by and through its attorneys, BCM Environmental & Land Law, PLLC, moves to rehear the October 25, 2017, Order Denying Motions to Compel Applicants' Unredacted Bid into the Massachusetts Request for Proposals. In support, they state as follows:

**BACKGROUND**

1. In its Motion filed on August 28, 2017, the Forest Society and the NGO Intervenors grouping, comprising Ammonoosuc Conservation Trust, Appalachian Mountain Club, and Conservation Law Foundation, jointly requested the Presiding Officer compel Applicants to produce unredacted copies of Hydro Renewable Energy Inc. ("HRE") and Northern Pass Transmission, LLC's ("NPT") two joint bids into the Massachusetts Request for Proposals process ("Mass RFP"), subject to the confidentiality agreements.
2. Applicants objected on September 7, 2017.
3. The Counsel for the Public filed a Motion seeking substantially the same relief as the Forest Society and the NGO Intervenors on September 8, 2017.

4. The Applicants objected to Counsel for the Public's Motion on September 18, 2017.

5. The Presiding Officer denied both Motions, stating as follows: (1) "The Joint Movants and Counsel for the Public have failed to demonstrate the information requested is necessary to assist in the conduct of the hearings"; (2) "the Clarification Order . . . did not require the Applicants to produce an unredacted version of the Tri-State Clean Energy RFP." Order Denying Motions to Compel Applicants' Unredacted Bid into the Massachusetts Request for Proposals, at 10 (Oct. 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 Forest Society files 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. Site 202.29; N.H. Super. 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 Forest Society is directly affected by the October 25, 2017, Order because its requested relief was denied.

11. A party may request rehearing by "specifying in the motion all grounds for rehearing," RSA 541:3, and "set[ting] 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 rehearings 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.” Site 202.29(d).

### **ANALYSIS**

13. First, the Presiding Office erred when he determined the information requested was not necessary to the proceedings. This conclusion is arbitrary and unreasonable and ignores the plain reality of Applicants’ arguments in this proceeding.

14. One of the primary benefits Applicants claims will come as the result of this Project’s approval is a positive impact on wholesale capacity and energy market prices and associated savings projections for New Hampshire ratepayers.

15. The Applicants also promote the claim that clean, reliable, and plentiful electricity will be transmitted by this Project. Therefore, the type of generation resource actually being transmitted is relevant and necessary to these proceedings.

16. This is further evidenced by the fact that William Quinlan and Julia Frayer discuss the bid extensively in their prefiled testimony and at the hearings.

17. And finally, the success of the Applicants’ bids into the Mass RFP process will greatly impact the financial viability of the Project.

18. The October 25, 2017 Order articulates no reason for why these arguments are insufficient. It identifies no lawful standard for making such determination beyond RSA 162-H:10, IV. Without this, the Order is unreasonable and a rehearing is warranted.

19. Further, the determination in this Order that the information is not relevant conflicts with the law of the case established by past orders. *See* Order on Motion to Compel, (Sept. 22, 2016); Order on SPNHF Motion to Compel (Oct. 4, 2016); Order on Applicants' Further Motion for Confidential Treatment (Dec. 13, 2016).

20. Second, the Presiding Officer erred when he determined the Clarification Order did not require the Applicants to produce an unredacted version of the Tri-State Clean Energy RFP bid.

21. The Clarification Order required the Applicants to produce unredacted copies of its Tri-State Clean Energy RFP. In pertinent part, the Clarification Order stated as follows:

In accordance with the Order on Applicant's Further Motion for Confidential Treatment, the Applicant is not required to produce unredacted copies of Ms. Frayer's pre-filed testimony and the LEI Report to the public. The documents, however, must be provided to parties that have entered into confidentiality agreements with the Applicant. The Applicant shall advise the Subcommittee when the Massachusetts RFP process has concluded and shall either disclose the unredacted versions of Ms. Frayer's pre-filed testimony and the LEI Report at that time, or file a further motion seeking confidential treatment of said documents and information.

Clarification Order, 6.

22. In this Order, the Presiding Officer does not explain how from this plain language one must conclude the Clarification Order did not compel production of the requested bid.

23. Despite Applicants' request, this Order does not state that the prior Orders did not require Applicants to produce an unredacted copy of the Tri-State Clean Energy RFP in whole or in part. This is because the September 22, 2016, Order granting Forest Society's request that "Applicant . . . produce an unredacted version of their [entire] Clean Energy RFP proposal" is neither inconsistent nor ambiguous.

24. Therefore, the Order is unreasonable and unlawful and rehearing is warranted.

**WHEREFORE**, the Forest Society respectfully requests that the Subcommittee:


- A. Grant this Motion for Rehearing; and
- B. 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: November 22, 2017

By:   
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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, November 22, 2017, a copy of the foregoing Motion for Rehearing was sent by electronic mail to persons named on the Service List of this docket.

  
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Amy Manzelli, Esq.