

November 27, 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 Motion for Declaratory Ruling**

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find an original and one copy of an
Objection to Motion for Declaratory Ruling.

Please contact me should you have any questions or concerns.

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 MOTION FOR DECLARATORY RULING

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 submit this objection to the motion filed by Ammonoosuc Conservation Trust (“ACT”), Appalachian Mountain Club (“AMC”) and Conservation Law Foundation (“CLF”) (together, “NGOs”) on November 15, 2017, asking the Site Evaluation Committee (“SEC” or in this case “Subcommittee”) for a ruling declaring that a Certificate for Site and Facility may only be issued for a project that transmits electricity exclusively generated by hydroelectric power. As explained below, the motion is procedurally and substantively deficient, and the restriction posed by the NGOs is legally and factually unsupportable.

1. On November 15, 2017, the NGOs filed a motion for a declaratory ruling asserting that the Application filed on October 19, 2015 seeks a Certificate for an energy facility that would transmit hydroelectricity exclusively. The NGOs reference a bid submitted on July 27, 2017, in response to a request for proposals to the Massachusetts (“Mass RFP”) pursuant to which the project would deliver electricity generated by a combination of hydro and wind power. They argue, moreover, that testimony by Ms. Frayer and Mr. Varney for the Applicants concerning the benefits of the project is premised on hydro power but that a mix of wind and hydro power “would have a range of different impacts.” Motion at p. 4. At the same time, they

say that a “wind-hydroelectricity combined resource mix could be preferable in some respects to the all-hydroelectricity generation mix.” *Id.*

2. First, as a procedural matter, the NGOs’ *motion* for declaratory ruling is not a proper vehicle for the argument that the NGOs make or the relief they seek. The NGOs correctly point to Site 203.01 as the basis for filing a *petition* for a declaratory ruling. Site 102.33 defines a petition as:

- (a) A request to the committee to rule on the applicability of this chapter to a particular proposed energy facility;
- (b) A petition for intervention made pursuant to RSA 541-A:32; or
- (c) Any other initial filing that requests the committee to take action with respect to a matter within its jurisdiction or to determine whether it has jurisdiction over a matter.

The NGOs’ pleading is not proper under the rule inasmuch as it does not request a ruling on the applicability of RSA 162-H to a particular proposed facility, does not pertain to intervention, and is not an initial filing asking the SEC to take action within its jurisdiction.

3. Site 102.28 defines a *motion*, on the other hand, as “a request made to the committee or the presiding officer after the commencement of a contested proceeding for an order or ruling directing some act to be done in favor of the party making the motion, including a statement of justification or reasons for the request.” Obviously, the NGOs’ pleading would be construed a motion, not a petition, insofar as it is made in the context of a contested proceeding that has already commenced. The request the NGOs make, however, does not ultimately qualify as a motion because it does not so much request a ruling in favor of the NGOs but ask the Subcommittee to prejudge a question of law.

4. Pursuant to Site 203.02 (c), the Subcommittee may dismiss a properly filed petition for declaratory ruling that:

- (1) Fails to set forth factual allegations that are definite and concrete;
- (2) Involves a hypothetical situation or otherwise seeks advice as to how the committee would decide a future case;
- (3) Does not implicate the legal rights or responsibilities of the petitioner; or
- (4) Is not within the committee's jurisdiction.

The NGOs' request, even if it were properly filed, involves a hypothetical situation because the project may never transmit wind power. Moreover, the NGOs fail to show how the request implicates their legal rights. Consequently, their request should be dismissed.

5. More fundamentally, with respect to the subject of the NGOs' argument, the SEC's rules do not require that an application for an electric transmission line include information describing the source of the generation for the electricity that would be transmitted over the line. See Site 301.03 (g). Consequently, there is no basis for concluding that the Application is defective in any way, or that a Certificate may be limited, inasmuch as the SEC determined that the Application was complete and accepted it on December 18, 2015.

6. The NGOs are wrong as well to the extent that they are asserting there would be different or lower capacity market and environmental benefits that would accrue from the project if the electricity transmitted over the line was generated from a mix of wind and hydro power, as opposed to almost exclusively hydro power. With respect to environmental benefits in terms of reduced air emissions, the Applicants explained in their responses to the NGOs' data requests NGO 1-3 and 4 that the emissions for Hydro-Québec hydropower are similar to those from wind power. See Attachment A. In addition, for purposes of calculating the benefits in the region, Ms. Frayer calculated the volume of CO₂ emissions that would be avoided per year in New England. The volume of avoided emissions in New England is not contingent on the type of clean energy generation source for the electricity transmitted by the Project but rather on the

quantity and carbon emissions profile of the displaced fossil fuel-fired generation in New England. See Pre-filed Direct Testimony of Julia Frayer, October 16, 2019, pp. 35-38.

7. As for the capacity market benefits resulting from the Project, they are a product of bids that will be made into the Forward Capacity Auctions. Capacity market benefits are not driven by the generation source of the electricity transmitted by the Project but by the quantity of the capacity being offered and cleared in the capacity market, irrespective of its technology source. Pre-filed Direct Testimony of Julia Frayer, October 16, 2015, p. 6, line 6 to p.8, line 4.

8. Finally, the NGOs make a catch-all claim, incorrectly positing that transmitting a mix of wind and hydro power over the project would “entail different corporate partners, different costs, and different contractual agreements, potentially including modified decommissioning arrangements” in some way that would affect the Certificate. In the first case, if the bid for wind and hydro power in the Mass RFP is successful, it will not require changes to the parties to the Application. In addition, as Mr. Auserè testified on April 17, 2017, if NPT and Hydro Renewable Energy Inc. are successful in the Mass RFP, they will file amendments to the Transmission Service Agreement (“TSA”) to reflect the terms of the Mass RFP. Tr. pp. 125-128, Day 3, Morning Session. Success in the Mass RFP, however, does not affect the Project costs that are recovered through the TSA or require modifications to the decommissioning arrangements for the Project.

9. In conclusion, the motion is procedurally improper and the underlying argument is unfounded. There is no basis for concluding that the Subcommittee may only issue a Certificate for a project that would exclusively transmit hydroelectric power. Finally, the testimony of Ms. Frayer supports equally the benefits of a project that would transmit a mix of wind and hydro power, and a project that would transmit exclusively hydro power.

WHEREFORE, the Applicants respectfully request that the Presiding Officer:

- A. Deny the Motion; 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 27, 2017

By: 

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Certificate of Service

I hereby certify that on the 27th 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 Distribution List.


Thomas B. Getz

NGO 1-3 Please produce all documents, information and communications that evidence, discuss or relate to greenhouse gas emissions that may be associated with the proposed Project, including the greenhouse gas impacts of reservoir preparation, creation, maintenance, operation, and decommissioning.

Response: LEI relied on the research published by Teodoru, C. R., et al. (2012) The net carbon footprint of a newly created boreal hydroelectric reservoir, Global Biogeochem. Cycles, 26, GB2016. This study found that long-term greenhouse gas emissions (“GHG”) emissions from a boreal hydroelectric reservoir (Eastmain-1 in northern Québec, Canada) are in the order of 17 metric tons of carbon (C-CO₂eq)/GWh. Based on a conversion rate of 3.647, this is equivalent to 62 kg CO₂eq/MWh, or 136 lbs CO₂eq/MWh. LEI used this emissions rate, 136 lbs CO₂eq/MWh, in assessing the social benefits of the emissions reductions associated with the Project, as described in Section 6.3 of the LEI Report.

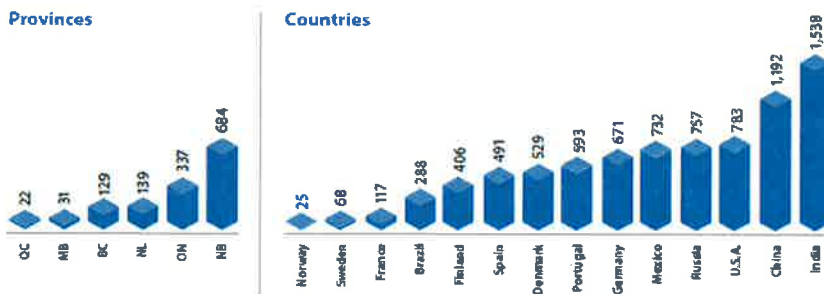
In addition, on June 6, 2016, Hydro-Québec submitted the attached letter to the U.S. Department of Energy regarding greenhouse gas emissions associated with the hydropower that Northern Pass would carry to New Hampshire and the rest of New England.

The Northern Pass proposal submitted in response to the Clean Energy RFP (the public version of which is available at <https://cleanenergyrfp.com/>) contains information consistent with Hydro-Québec's June 6 letter to the U.S. Department of Energy. For example, the Northern Pass proposal includes the following:

GHG Emissions – Electricity Mix by Province and Country (g CO₂ eq/kWh)

GHG EMISSIONS – ELECTRICITY MIX BY PROVINCE AND COUNTRY (g CO₂ eq./kWh)

Value shown corresponds to the generation, purchase, import, transmission and distribution of electric power.



Source: Study by CIRAIG (International Reference Centre for the Life Cycle of Products, Processes and Services) (Full study available in French at <http://www.hydroquebec.com/developpement-durable/centre-documentation/pdf/comparaison-filieres-et-bouquets.pdf>. English summary: <http://www.hydroquebec.com/developpement-durable/centre-documentation/pdf/15094A.pdf>)

Although in regulatory processes such as Clean Power Plan hydroelectric generation has historically been considered for all practical purposes as relatively carbon neutral with close to zero emissions, more recently, environmental analysts have pointed out that the reservoirs

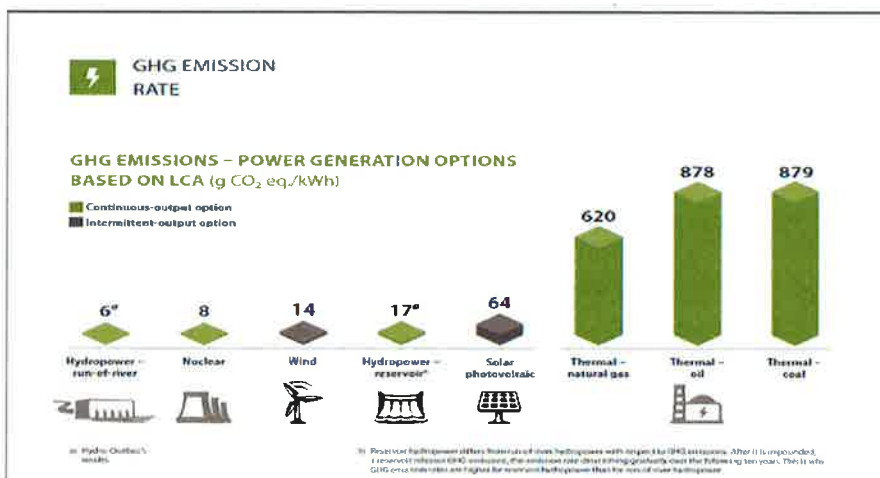
created for hydroelectric generation result in the emission of GHG by biomass decay in the first years following flooding. See, e.g., Teodoru et al, *The net carbon footprint of a newly created boreal hydroelectric reservoir*, *Global Biogeochemical Cycles*, Vol. 26, GB2016, 1 (2012).

All types of electricity generation produce greenhouse gas emissions either during the construction phase or the operating phase. The main source of emissions from the generation of hydropower is the decomposition of organic matter in reservoirs. This is a temporary phenomenon, and generally speaking, emissions from northern reservoirs return to the level observed in natural lakes within 10 years after the creation of the reservoir. All natural aquatic areas emit greenhouse gases. Similarly, Hydro-Québec's northern reservoirs emit small quantities of GHG emissions. The main gas emitted by northern reservoirs is carbon dioxide (CO₂). They also give off methane (CH₄), but in minute quantities since the cold, well-oxygenated waters of Québec's large water bodies are not conducive to the formation of that gas. Consequently, methane emissions are not an issue for hydropower in Québec.

Hydropower generated in Québec is one of the lowest emitting generation sources. See "Québec electricity, clean energy par excellence" at <http://www.hydroquebec.com/developpement-durable/centre-documentation/pdf/15094A.pdf> Recent life cycle analysis mention an emissions factor of 19 g CO₂ eq/kWh for production and transport of Hydro-Québec hydropower. Thus, the emissions from Hydro-Québec hydropower are:

- Similar to those from wind power;
- Five times lower than emissions from solar photovoltaic energy;
- 50 times lower than a gas-fired thermal plant; and
- 70 times lower than a coal-fired thermal plant.

GHG Emissions – Power Generating Options based on Life-Cycle Analysis (g CO₂ eq/kWh)



Source: Study by CIRAIG (International Reference Centre for the Life Cycle of Products, Processes and Services) (Full study available in French at <http://www.hydroquebec.com/developpement-durable/centre-documentation/pdf/comparaison-filieres-et-bouquets.pdf>. English summary: <http://www.hydroquebec.com/developpement-durable/centre-documentation/pdf/15094A.pdf>)

Except as included in the public version, the remaining details of the Northern Pass proposal are confidential, and disclosure would compromise the integrity of the evaluation process and significantly harm the Project. Accordingly, only the public version of the Northern Pass proposal is available at this time. This response is not intended to be, and should not be construed as, a waiver of confidentiality asserted by Northern Pass with respect to its proposal and related submissions in response to the Clean Energy RFP.

Please see documents uploaded to the ShareFile Site in response to this request.

NGO 1-4 Please produce copies (in English) of all documents, information and communications that evidence, discuss or relate to and state the basis for Hydro-Quebec's public position that the life-cycle carbon or greenhouse gas emissions of hydroelectric power are equivalent to wind and less than solar.

Response: Please see the Applicants' Response to NGO 1-3 above.