

December 19, 2017

Ms. Pamela G. Monroe, Administrator
NH 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
Applicants' Motion for Protective Order and Confidential Treatment Regarding
Certain Exhibits

Dear Ms. Monroe:

Enclosed for filing in the above-captioned docket, please find the Applicants'
Motion for Protective Order and Confidential Treatment Regarding Certain Exhibits.

Please let me know if you have any questions.

Sincerely,



George Dana Bisbee

GDB:lml

cc: SEC Distribution List

Enclosure

THE 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**

**APPLICANTS' MOTION FOR PROTECTIVE ORDER AND
CONFIDENTIAL TREATMENT REGARDING CERTAIN EXHIBITS**

NOW COME Northern Pass Transmission LLC ("NPT") and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the "Applicants") by and through their attorneys, Devine, Millimet & Branch, Professional Association, and respectfully request that the Site Evaluation Committee ("SEC" or "Committee") issue a protective order to preserve the confidentiality of certain exhibits that contain confidential information related to the location of rare, threatened and endangered plant species

In support of their Motion, the Applicants state as follows:

1. Governmental records, as defined by RSA 91-A:1-a, are generally made available for public inspection pursuant to the Access to Governmental Records and Meetings Statute (a.k.a. the Right-to-Know Law). *See* RSA 91-A:4; *see also* N.H. Admin Rule Site 104.01. There are certain exemptions, however, from the requirement that public agencies or public bodies produce government records. One such exemption applies to "confidential, commercial, or financial information . . . and other files whose disclosure would constitute invasion of privacy." RSA 91-A:5. The Applicants respectfully request that the Committee issue a protective order and that it treat the above-described information as confidential pursuant to RSA 91-A:5. *See*

also Site 104.01(b) (presiding officer or chairman may protect documents that are exempt from disclosure pursuant to RSA 91-A:5).

Confidential Information Regarding Native Plants, Animal Species and
Natural Communities

2. Applicants seek a protective order and confidential treatment of materials relating to New Hampshire's native plants, animals and natural communities, as well as those documents containing information subject to a data sharing agreement between the Applicant's expert, Normandeau, and the New Hampshire Natural Heritage Bureau ("NHNHB").

3. RSA 162-H:16, IV (c) requires that an application for a Certificate of Site and Facility, must inter alia, demonstrate that the project will not have an unreasonable adverse effect on the natural environment. Similarly, N.H. Admin. Rule Site 301.03(c) requires an applicant to identify "natural and other resources at or within or adjacent to the site," which typically includes the identification of native plants and natural communities. Site 301.03(i) also requires an applicant include information "regarding the effects of the facility on, and plan for mitigation of any effects" on the natural resources in the application.

4. As part of its work, the Applicants' expert, Normandeau Associates, Inc., has coordinated with NHNHB regarding information on known locations of rare species and exemplary natural communities. NHNHB provided Normandeau with digital data for the Project pursuant to data sharing agreements. The NHNHB data includes information on known locations of rare, threatened and endangered plant and animal species and exemplary natural communities that would potentially be impacted by the Project. In agreeing to provide this data to Normandeau, the NHNHB restricted its distribution and required that specific locational information not be publicly disclosed.

5. Applicants' Exhibit 124e, an update to Appendix 48, Regulatory Agency Consultation Summary Table, submitted by the Applicants includes information regarding natural resource data and natural resource sites within or adjacent to the Project Area as required. This information includes maps, surveys and other material relating to the specific location and type of native plant and animal species and natural communities. Based upon the importance of protecting and preserving New Hampshire's native species and natural communities, the Applicants assert this information should be exempt from RSA 91-A.

6. Producing information about the type and location of sensitive native species could negatively affect those resources. In addition, producing such information stands in stark contrast to the legislative intent of the New Hampshire Native Plant Protection Act of 1987:

Because there are no laws protecting any of our native plants, every year hundreds of our native plants are dug up and removed without permission from public and private property. Many of these are taken out-of-state and sold for profit. Therefore, the legislature finds and declares that...For human needs and enjoyment, the interests of science, and the economy of the state, native plants and natural communities throughout this state should be protected and conserved; and that native plant numbers should be maintained and enhanced to insure their perpetuation as viable components of their ecosystems for the benefit of the people of New Hampshire. Native species of plants within this state and the nation that are endangered, threatened, or otherwise reduced in number or may become so because of loss, modification, or severe curtailment of their habitats, or because of exploitation for commercial, scientific, educational, or private use, should be accorded protection as is necessary to maintain and enhance their numbers.

RSA 217-A:2.

7. Disclosure of such information would be in direct contradiction of the NHNHB requirements and could result in the intentional disturbance or removal of native plants and natural communities. The benefits of non-disclosure to the general public largely outweigh any public interest in obtaining these documents. Therefore, in furtherance of the legislative intent expressed in RSA 217-A:2, the Applicants request that certain communications and documents included in Applicants' Exhibit 124e, a further update to Appendix 48, be treated as confidential.

Protective Order

8. The confidential plant and exemplary natural communities information in Applicants' Exhibit 124e, a further update to Appendix 48, has been marked confidential and has only been provided to the Committee and Counsel for the Public.

9. The Applicants respectfully request that the Committee issue an order consistent with the terms and conditions contained in two prior Orders on Motion for Protective Order and Confidential Treatment, dated May 25, 2016 and June 30, 2017, protecting similar types of information.

10. At the time of the filing of this Motion, the Deerfield Abutting Property Owners and the City of Franklin concurred with the relief sought. Municipal Group 2 took no position. No further responses were received to the Applicants' request for positions.

WHEREFORE, the Applicants respectfully request that this Committee:

A. Grant the Applicants' request that the materials identified in Applicants' Exhibit 124e be treated as confidential;

B. Issue a protective order, similar to those issued previously in this docket, that preserves the confidentiality of the documents identified in Applicants' Exhibit 124e;

C. Authorize the Applicants to submit redacted versions of Applicants' Exhibit 124e;
and

D. 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,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

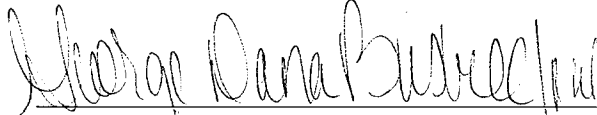
Dated: December 19, 2017

By: 

George Dana Bisbee, Bar No. 557
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Manchester, NH 03101
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Certificate of Service

I hereby certify that on the 19th of December, 2017, this Motion was electronically served upon the New Hampshire Site Evaluation Committee and an electronic copy was served upon the SEC Distribution List.


George Dana Bisbee