

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

Joint Application of Northern Pass Transmission, LLC and Public Service  
Company of New Hampshire d/b/a Eversource Energy for a Site and Facility for  
the Construction of a New High Voltage Transmission Line in New Hampshire

Docket No. 2015-06

**Municipal Group 1 North's Motion to Strike**  
**Applicants' Premature**  
**Motion for Rehearing and Out of Order Request to Vacate**

The Record in this proceeding closed on December 22, 2017. Municipal Group 1 North, which includes the Town of Pittsburg, the Town of Clarksville, the Town of Stewartstown and District 3 Coos County Commissioner Samson, filed its Post-Hearing Memorandum on January 11, 2018. The other Intervenor Groups as well as the Applicants have also filed their Post-Hearing Memorandum. On the third day of deliberations, February 1, 2018, the Site Evaluation Committee ("SEC") unanimously passed an oral motion to deny the Applicants' Joint Application in a vote of 7-0. To date, the SEC has not released a final written decision in the matter.

On February 28, 2018, the Applicants filed a Premature Motion for Rehearing and an out of order Request to Vacate. In their February 28, 2018 papers, the Applicants represented and affirmed that they were not seeking to Re-Open the Record of these proceedings.

The Motion for Rehearing is premature because the final written decision of the SEC has not yet been filed. Under Site 202.29, a party has a right to file a

Motion for Rehearing, but any such motion is subject to the rules of administrative procedure, including RSA 541-A:35, which provides:

A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed promptly to each party and to a party's recognized representative.

As is clear from the language of RSA 541-A:35, the decision of the SEC in this matter is not final until an order, including "findings of fact and conclusions of law, separately stated" has been filed and noticed to all the parties. If there was any doubt on this point, a virtually identical issue arose in the case of Omega Entertainment LLC, 156 NH 282 (2007) where a party complained that an earlier action by the NH Liquor Commission was a "final decision" under RSA 541-A:35. In rejecting the claim, the NH Supreme Court stated unequivocally that the earlier action of the Commission in December of 2005 that was claimed to be a "final decision" was not, in fact, the final decision of the NH Liquor Commission because, among other things, it did not contain the "findings of fact" required by RSA 541-A:35. Id. at 291. The Court held that the final decision in the Omega case was actually issued on February 8, 2006, when a written decision with detailed findings of fact was filed. Id. at 290.

The Applicants Motion for Rehearing and Accompanying Request to Vacate are, in fact, premature efforts to introduce new matter or at least re-argument into the Closed Record of these proceedings and they should be stricken from the docket. Site 202.26(a) provides that:

At the conclusion of a hearing, the record shall be closed and no other evidence, testimony, exhibits, or arguments shall be allowed into the record, except as allowed by (b) below.

No exceptions to this rule are applicable and the Applicants' Motion and Request filed February 28, 2018, should therefore be stricken as premature and out of order.

WHEREFORE, Municipal Group 1 North respectfully requests that the SEC strike the premature and out of order Motion for Rehearing and Request to Vacate filed by the Applicants on February 28, 2018.

Representatives for the Towns of Pittsburg, Clarksville, Stewartstown and Coos County District Three.

Steve Ellis

Richard J. Samson