

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

OBJECTION OF THE ABUTTING PROPERTY OWNERS, BETHLEHEM TO  
PLYMOUTH INTERVENOR GROUP TO APPLICANT'S MOTION FOR  
REHEARING OF DECISION AND ORDER DENYING APPLICATION

The Abutting Property Owners, Bethlehem To Plymouth (APOBP) Intervenor group respectfully objects to the Motion for Rehearing of the Decision and Order Denying Application (the "Motion") filed on April 27, 2018 by Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the "Applicant"). APOBP respectfully requests that the Subcommittee of the Site Evaluation Committee (the "SEC" or "Subcommittee") deny this motion. In filing this Objection, APOBP states as follows:

1. In order to be granted a rehearing, the Applicant must demonstrate that the SEC's Order is premised on an error of fact, reasoning or law, thereby rendering it unlawful, unjust, or unreasonable [N.H. CODE ADMIN. RULES Site 202.29, and RSA 541:3].
2. The Applicant's Motion completely fails to demonstrate any error of fact, reasoning, or law on the part of SEC in reaching its Decision and Order Denying Application (the "Order"). SEC presented a very clear and detailed basis for its decision in its written Order. This Order made it clear that, in several respects, the Applicant's application, evidence, and expert testimony in this case fell far short of the standard of proving that the proposed project would not have undue impact on orderly development of the region. The Applicant's Motion identifies nothing within this Order that rises to the standard of error in fact, reasoning, or law on the part of SEC.
3. A key tenet of the Applicant's Motion for Rehearing is that if SEC were to grant a rehearing, it would be able to consider the large body of new assertions and claims that the Applicant includes in and appends to its Motion. It is the Applicant's contention that if SEC were to consider this new material, particularly a list of new concessions (or "conditions") proposed by the Applicant after SEC rendered its

decision and long after the record for this docket was closed, then SEC might reach a different decision regarding denial of the application.

4. This argument on the part of the Applicant has at least two fatal flaws:
  - A. By law and rule, the Applicant may not submit new material for consideration by SEC after the record for the case is closed. The purpose of a Motion for Rehearing is to identify any errors in fact, reasoning, or law based on the existing record and SEC's prior deliberation of the existing record – not to introduce new material for SEC's consideration. It is very clear why the laws and rules governing SEC preclude the consideration of new material submitted after the close of the record. Such new, extra-record material has not been subject to public release and comment, expert review, or examination and cross-examination at trial. Other parties to the docket have not had their due process opportunity to present views on or to challenge this material. Such extra-record material constitutes no more than untested assertions and claims on the part of the applicant and has no credibility or legal standing as evidence in the case.
  - B. The Applicant's assertion that the new conditions or project modifications listed in their Motion would sufficiently cure the deficiencies in their application is without grounds.
5. One example of the new conditions proposed in the Applicant's motion is the Property Value Guarantee (PVG), which is cited as a remedy for adverse property value impacts along the route. The Applicant's PVG, as proposed going into deliberations, would have applied to only a very few properties along the route and would not have applied anywhere along the underground portion of the route. Now that the Applicant's project has been denied based in part on property value impacts, the Applicant is offering to expand this PVG. There are a variety of problems with the proposed new approach, including, but not limited to:
  - the likelihood that many homeowners, especially out-of-town second-home owners, might not be aware that this PVG was available to them;
  - that many potential claimants would be deterred by the paperwork required, or by having to argue their case before mediators;
  - that contamination of well-water anywhere along the route would make water quality all along the route suspect, thereby affecting property values throughout the underground portion;

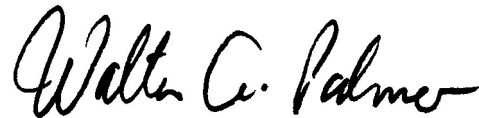
- that in both above- and below-ground installations, some potential real estate purchasers would be deterred by perceived health impacts (see testimony of Peter Grote), causing general downward pressure on property values;
  - that a catastrophic event at any one location along the buried line would severely diminish property values all along the underground line; or
  - that recurrent problems requiring repeated repair work in a particular location of the buried line could have severe property value impacts on adjacent parcels.
6. Under the above-listed circumstances, the affected property owners would have great difficulty establishing a connection between their losses and the project, and their losses would not be compensated under the proposed PVG. It is clear that in any number of circumstances the PVG contemplated by the Applicant would be wholly inadequate as a remedy for the property value impacts caused by this project.
  7. The problem that this project has with respect to property values is a fundamental error in route selection by the Applicant. It was a fatal mistake to propose routing the underground portion of the project along the shoulders of local roads, in close proximity to homes and wells, and through the hearts of multiple towns. The only adequate remedy to property value impacts would be to reroute the project away from towns and homes. The PVG proposal in the Applicant's Motion falls far short of remedying the proposed project's basic, fundamental flaw in route selection, and the resulting, unacceptable impacts on property values.
  8. Similarly, the Applicant's proposal to mitigate tourism impacts by spending money to promote tourism is also a wholly inadequate remedy. Advertising after the project is built may come too late to save tourist venues that could not survive the downturn during construction. Advertising during construction runs the risk of having visitors go home and tell others of the noise, dust, inconvenience, and scale of the installation, giving the overall impression that the remote North Country vacation experience has been destroyed forever.
  9. By proposing this mitigation measure, the Applicant clearly acknowledges the severe and unacceptable impact that the proposed project would have on tourism. However, once again the remedy proposed in the Applicant's Motion would fall far short of alleviating the unacceptable impacts caused by the project. No amount of expenditure or promotion can revive tourism in an area where the main attraction for tourists has been destroyed. The only remedy for the unacceptable impacts on tourism resulting from this project would be a fundamental redesign of the project to avoid impacts on the State's natural heritage.

WHEREFORE, APOBP respectfully requests that the Site Evaluation Committee:

- A. Deny Applicant's Motion for Rehearing; and
- B. Disregard and strike from the record all new evidence introduced in the Motion for Rehearing, including attachments and associated briefings; and
- C. Grant such further relief as may be deemed appropriate.

Respectfully Submitted,  
Abutting Property Owners, Bethlehem To  
Plymouth Intervenor Group

By its designated spokesperson



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Date: May 8, 2018

CERTIFICATE OF SERVICE I hereby certify that on this day, May 8, 2018, a copy of the foregoing Joinder was sent by electronic mail to persons named on the Service List of this docket.

