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August 30, 2018

Via In Hand Delivery

New Hampshire Supreme Court
One Charles Doe Drive
Concord, NH 03301

RE: ***Appeal of Northern Pass Transmission LLC, et al.***

Dear Sir/Madam:

Please find enclosed for filing and docketing the following:

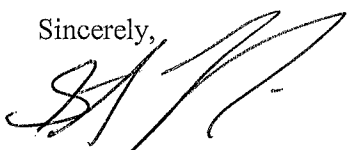
1. McKenna's Purchase's Motion for Summary Affirmance of the Orders of the Site Evaluation Committee Dated March 30, 2018 and July 12, 2018;

2. Memorandum of Law in Support of McKenna's Purchase's Motion for Summary Affirmance of the Orders of the Site Evaluation Committee Dated March 30, 2018 and July 12, 2018; and

3. McKenna's Purchase's Joinder in the Motion to Permit Electronic Service Filed by Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy.

Thank you for your attention to this matter.

Sincerely,



Stephen N. Zaharias

Jcj
Enclosures

cc: All Interested Parties

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2018 TERM

FALL SESSION

NO. 2018-0468

APPEAL OF NORTHERN PASS TRANSMISSION, LLC ET AL.

(New Hampshire Site Evaluation Committee)

McKENNA'S PURCHASE'S MOTION FOR SUMMARY AFFIRMANCE OF THE ORDERS OF THE SITE EVALUATION COMMITTEE DATED MARCH 30, 2018 AND JULY 12, 2018

NOW COMES McKenna's Purchase Unit Owners Association ("McKenna"), by and through its attorneys, Wadleigh, Starr & Peters, P.L.L.C., and pursuant to Rule 25 of this Court's rules, files the following Motion for Summary Affirmance of the Decision and Order Denying Application for a Certificate of Site and Facility of the Site Evaluation Committee ("SEC") dated March 30, 2018 ("Order") and the SEC's Order (on rehearing and more) dated July 12, 2018 (collectively, the "Decisions"), stating as follows:

1. As explained more thoroughly in the Memorandum of Law in support of this Motion, the SEC properly declined to issue a certificate of site and facility to Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the "Applicant") based upon the reasonable and supportable determination that the Applicant failed to demonstrate by a preponderance of the evidence that, as a matter of fact, the project at issue will not unduly interfere with the orderly development of the region.

2. Although the Applicant has appealed the SEC's Decisions, no substantial issue of law is presented by the appeal, nor is there any basis for this Court to conclude that the well-reasoned and thorough decision of the SEC was unjust or unreasonable in any way.

3. Accordingly, and for the reasons set forth in the Memorandum of Law accompanying this Motion, this Court should summarily affirm the SEC's Decisions, or, alternatively, decline to accept the discretionary appeal filed by the Applicant.

WHEREFORE, McKenna respectfully requests that this Court:

A. Summarily affirm the SEC's Decisions;

B. Alternatively, decline to accept the Applicant's appeal; and

C. Grant such further relief as is equitable and just.

Respectfully submitted,

MCKENNA'S PURCHASE

By its attorneys,

WADLEIGH, STARR & PETERS P.L.L.C.

Dated: August 30, 2018

By: _____

Stephen J. Judge, Esq., NH Bar # 1292
Stephen Zaharias, Esq., NH Bar #265814
95 Market Street
Manchester, NH 03101
603-669-4140
sjudge@wadleighlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of August 2018, a copy of the foregoing document is being provided to all other parties in the case, either via through an electronic copy being served upon the Distribution List, through this Court's electronic filing system, or via first class mail.

_____

Stephen Zaharias, Esq.

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2018 TERM

FALL SESSION

NO. 2018-0468

APPEAL OF NORTHERN PASS TRANSMISSION, LLC ET AL.

(New Hampshire Site Evaluation Committee)

MEMORANDUM OF LAW IN SUPPORT OF McKENNA'S PURCHASE'S MOTION FOR SUMMARY AFFIRMANCE OF THE ORDERS OF THE SITE EVALUATION COMMITTEE DATED MARCH 30, 2018 AND JULY 12, 2018

Pursuant to Rule 25 of this Court's rules, McKenna's Purchase Unit Owners Association ("McKenna") moves that this Court summarily affirm the Decision and Order Denying Application for a Certificate of Site and Facility of the Site Evaluation Committee ("SEC") dated March 30, 2018 ("Order") and the SEC's Order (on rehearing and more) dated July 12, 2018 (collectively, the "Decisions"). McKenna respectfully submits this memorandum in support of the Motion being filed simultaneous herewith.

I. Introduction

The SEC properly determined that Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the "Applicant") failed to demonstrate by a preponderance of the evidence that, as a matter of fact, the Project at issue will not unduly interfere with the orderly development of the region. See Order dated March 30, 2018, at p. 6, contained in Applicant's Appendix to their Notice of Appeal at p. 14. Although McKenna has joined the Motion for Summary Affirmance filed by the Movants, the within memorandum is filed separately to seek summary affirmance based upon the Applicant's failure

to raise any issues of fact in its appeal or at rehearing. Because of this failure, no substantial issue of law is presented and there is no basis for this Court to "find" that the SEC decision is unjust or unreasonable. See N.H. S. Ct. R. 25(1) (the "Rule 25 Standard"). At most, the SEC decision is an example of the ordinary application to the facts presented of statutes and rules specific to the SEC and its determination of the obvious: if an applicant fails to meet its burden of proof, the application will be denied. Accordingly, and as explained in more detail below, the SEC's decision should be summarily affirmed, or, alternatively, this Court should decline to accept the discretionary appeal.

II. Standard of Review.

RSA 541:13 Standard.

In applying the Rule 25 Standard in this case to factual issues as well as legal issues, the legislature has provided, in pertinent part, that:

> the burden of proof shall be upon the party seeking to set aside any order or decision of the commission to show that the same is clearly unreasonable or unlawful[1], and all findings of the commission upon all questions of fact properly before it shall be deemed to be prima facie lawful and reasonable; and the order or decision appealed from shall not be set aside or vacated except for errors of law, unless the court is satisfied, by a clear preponderance of the evidence before it, that such order is unjust or unreasonable.

RSA 541:13 (emphases added).

Here, the Applicant has unmistakably failed to meet its burden to show by a "clear preponderance of the evidence" that the SEC's decision was unjust or unreasonable. In fact, there is no evidence in dispute at all. Rather, the Applicant's argument is that the SEC erred as a matter of law to find facts to prove a negative: the Applicant's failure to meet its burden of proof.

[1] The Notice of Appeal is also deficient because it sets the standard at "unlawful or unreasonable." It omits the word "clearly." The "clearly" unlawful or unreasonable standard is contained only as a passing reference on p. 53 of the Notice of Appeal.

See generally, Applicant's Notice of Appeal. Absent any evidence, however, there is no basis to determine whether there is an error of law. Such a decision would constitute an advisory opinion. See Duncan v. State, 166 N.H. 630, 640-41 (2014) (explaining that the New Hampshire Constitution allows the justices of the State's Supreme Court to render advisory opinions only in "carefully circumscribed situations" and does not authorize the Court to render advisory opinions to private individuals (quotation omitted)).

III. Undisputed Facts.

Here, because the Applicant has failed to contest any issues of fact found by the SEC, all facts and other determinations by the SEC that the Applicant failed to meet its burden of proof are beyond prima facie lawful and reasonable – they are undisputed.

First, the Applicant failed to file with the SEC any requests for findings of fact. The Applicant also failed to identify any errors of fact or proposed facts in its Motion for Rehearing as required by Site 202.29. See N.H. Code Admin. R. Site 202.29(d) (explaining that a motion for rehearing shall, among other things, "[i]dentify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered," describe "how each error causes the committee's order or decision to be unlawful, unjust or unreasonable," and "[s]tate concisely the factual findings, reasoning or legal conclusion proposed by the moving party"). Thus, the following facts have effectively been admitted. See Barlow v. Verrill, 88 N.H. 25, 183 A. 857, 858 (1936) (explaining that "relevant evidence received without objection may properly be considered by the trier of fact").

McKenna is a condominium association located at 84 Branch Turnpike in Concord, New Hampshire, and it consists of 148 townhomes. The right of way ("ROW") for the Project is on the east side of McKenna's property. The Project would significantly increase the size of towers

from approximately 40 feet high to somewhere between 70 to 90 feet high. See Order at p. 172, contained in Appendix at p. 180. McKenna would lose a substantial vegetative and earthen buffer that would also increase the visibility to the units. See Order at p. 279, contained in Appendix at p. 287. Many units are within 100 feet of the ROW. See Order p. 172-73, contained in Appendix at p. 180-81.

The Applicant produced James Chalmers as a purported expert witness on the effect of the Project on real estate values. In his initial testimony, Mr. Chalmers omitted any reference to commercial properties, condominiums, and multi-family housing. In fact, his 1300-page report contained not one word about McKenna. After supplemental testimony and cross examination, he testified under oath that the Project would not decrease property values, including for McKenna.

The SEC, however, rejected his testimony that the 192-mile corridor for the Project would not decrease property values for McKenna and all other properties.[2] See Order at p. 197, contained in Appendix at p. 205; see also Appeal of New Hampshire Elec. Coop., Inc., 170 N.H. 66, 74 (2017) (explaining that the "trier of fact is free to accept or reject an expert's testimony, in whole or in part"); Appeal of Lambrou, 136 N.H. 18, 20 (1992) (explaining that, even if "expert testimony is uncontradicted," such "does not mean that the factfinder is bound to accept it"). The testimony was rejected because it was unreliable, unsupported, shallow, unpersuasive, and, no more than merely a guess. See In re Aube, 158 N.H. 459, 465-66 (2009) (stating that the Supreme Court defers to the trier of fact's "judgment on such issues as resolving conflicts in the testimony, measuring the credibility of witnesses, and determining the weight to be given evidence," and explaining that the "fact finder may accept or reject, in whole or in part, the

[2] Mr. Chalmers did agree that there might be a decrease in value for 6-9 properties.

testimony of any witness or party, and is not required to believe even uncontroverted evidence"). Mr. Chalmers' testimony and evidence contained uncorrected errors, and little, if any, consideration to condominiums. See Order at p. 194-99, contained in Appendix at p. 202-07. In sum, the SEC determined that "the Applicant did not meet its burden [of] demonstrating that the Project's impact on property values will not unduly interfere with the orderly development of the region." Order at p. 199, contained in Appendix at p. 207. Given that such a determination is prima facie lawful and reasonable, and the Applicant has done nothing to show the contrary, this decision must stand.

IV. The Applicant failed to meet its burden at the SEC.

The Applicant's burden at the SEC is determined by several statutes and rules, beginning with provisions set forth is RSA 162-H, and continuing with some SEC rules. However, under none of these provisions did the Applicant provide sufficient facts for the SEC to determine by a preponderance of the evidence that a certificate should issue. Accordingly, the SEC's decision must be summarily affirmed.

First, RSA 162-H;10, IV provides that the SEC "shall require from the applicant whatever information it deems necessary to assist in the conduct of the hearings, and any investigation or studies it may undertake, and in the determination of the terms and conditions of any certificate under consideration." (Emphasis added). A more specific requirement is set out in RSA 162-H:16, which states:

> II. Any certificate issued by the site evaluation committee shall be based on the record. The decision to issue a certificate in its final form or to deny an application once it has been accepted shall be made by a majority of the full membership. A certificate shall be conclusive on all questions of siting, land use, air and water quality.
>
> ...

> IV. After due consideration of all relevant information regarding the potential siting or routes of a proposed energy facility, including potential significant impacts and benefits, the site evaluation committee shall determine if issuance of a certificate will serve the objectives of this chapter. In order to issue a certificate, the committee shall find that:
>
> ...
>
> (b) The site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.

RSA 162-H:16, II, IV (emphases added).

Thus, according to the plain language of these statutes, it is the Applicant's burden to provide "all relevant information" to prove by a preponderance of the evidence that the proposed facility "will not unduly interfere with the orderly development of the region." See State Employees Ass'n of New Hampshire, SEIU, Local 1984(SEA) v. New Hampshire Div. of Pers., 158 N.H. 338, 343 (2009) (explaining that when interpreting statutes courts will first ascribe the plain and ordinary meaning to the words used, and that statutes are not interpreted in isolation but in the context of the overall statutory scheme; thus, when "interpreting two statutes that deal with a similar subject matter, we construe them so that they do not contradict each other, and so that they will lead to reasonable results and effectuate the legislative purpose of the statutes"). Without that evidence, the SEC has no authority to make the required determinations, and, under such circumstances – such as here – the SEC could not issue a certificate.

The SEC rules underscore the Applicant's burden. Pursuant to RSA 162-H:10, VII, the SEC rules set out the "criteria for the siting of energy facilities, including specific criteria to be applied in determining if the requirements of RSA 162-H:16, IV have been met by the applicant for a certificate of site and facility." (Emphasis added). In turn, Site 202.19, entitled "Burden and Standard of Proof," provides that:

(a) The party asserting a proposition shall bear the burden of proving the proposition by a preponderance of the evidence.

(b) An applicant for a certificate of site and facility shall bear the burden of proving facts sufficient for the committee or subcommittee, as applicable, to make the findings required by RSA 162-H:16.

N.H. Code Admin. R. Site 202.19(a)-(b) (emphases added). Again, this burden was clearly not met in this case.

The Applicant actually began to fail in its burden with the application that it submitted. Such application must include a wealth of information as seen in various provisions of the SEC's rules. See N.H. Code Admin. R. Site 301.03-301.09. These provisions require, among other things, that each application for a certificate of site and facility for an energy facility include the "information described in Sections 301.04 through 301.09", and "[p]re-filed testimony and exhibits supporting the application." Id. at Site 301.03(h)(5), (8). Here, Mr. Chalmers' original pre-filed testimony, upon which the Applicant relies, contained no support regarding the effect of the Project on McKenna.

Moreover, the application was required to "include information regarding the effects of the proposed energy facility on the orderly development of the region, ... and the applicant's estimate of the effects of the construction and operation of the facility on," among other things:

(b) The economy of the region, including an assessment of:

(1) The economic effect of the facility on the affected communities;

(2) The economic effect of the proposed facility on in-state economic activity during construction and operation periods;

(3) The effect of the proposed facility on State tax revenues and the tax revenues of the host and regional communities;

(4) The effect of the proposed facility on real estate values in the affected communities;

(5) The effect of the proposed facility on tourism and recreation; and

(6) The effect of the proposed facility on community services and infrastructure[.]

N.H. Code Admin. R. Site 301.09(b) (emphases added).

Here, the Applicant's testimony on these points was considered, but ultimately rejected, by the SEC. As noted above, the SEC determined that Mr. Chalmers was not credible, and as the trier of fact, the SEC was well within its right to reject such testimony and evidence. See In re Aube, 158 N.H. at 465-66 (explaining that credibility determinations are for the trier of fact and that the trier of fact is not required to believe even uncontroverted evidence). Accordingly, the Applicant failed to show all of the elements that it was required to show under the applicable statutes and rules. As such, the Applicant failed to meet its burden.

Moreover, contrary to the assertions set forth by the Applicant, there is nothing requiring the SEC to make findings of fact in the absence of facts, especially when it was the Applicant who had the burden to set forth such facts. Thus, this Court should summarily affirm the SEC decision or it will be, in effect, issuing an advisory opinion untethered to any facts. In other words, summary affirmance is warranted because there is no valid basis upon which the SEC's decision has been appealed. See N.H. S. Ct. R. 25.

V. The Applicant Failed to Identify any Error of Fact in its Motion for Rehearing.

Pursuant to the SEC's rules, the process for rehearing is clear. In its motion for rehearing, the Applicant was required to, among other things, identify any errors of fact and state its proposed factual findings. Site 202.29 provides in part that:

> (a) The rules in this section are intended to supplement RSA 541, which requires or allows a person to request rehearing of an order or decision of the committee prior to appealing the order or decision.

(b) The rules in this section shall apply whenever any person has a right under applicable law to request a rehearing of an order or decision prior to filing an appeal of the order or decision with the court having appellate jurisdiction.

. . .

(d) 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.

N.H. Code Admin. R. Site 202.29 (emphases added).

The Applicant, however, has sought to turn the law on its head and flip the burden. The Applicant's Motion for Rehearing presented the argument that the SEC did not make findings of fact explaining why the Applicant failed to satisfy its burden. See, e.g., Motion for Rehearing p. 37, contained in Appendix at p. 593. However, it was the Applicant's burden to show that all required elements set forth in the applicable statutes and rules were met – a burden that the Applicant failed to satisfy. Although the issue is raised as a purported legal issue in the Motion for Rehearing (and again on appeal), this is, in reality, a factual matter, and again, the Applicant failed to request any findings of fact. The Applicant also failed to provide any proposed factual findings. Thus, when the SEC determined that the testimony of the Applicant's star witness, Mr. Chalmers, was unreliable, unsupported, unpersuasive, failed to correct errors, and contained little, if any, consideration to condominiums, the SEC properly exercised its discretion to determine that the Applicant failed to demonstrate the required elements of the applicable statutes and rule. See, e.g., Appeal of Morin, 140 N.H. 515, 518 (1995) (noting that an agency

has the authority to exercise discretion and that its interpretation of its own regulations is accorded deference). Accordingly, there is no valid basis for an appeal here.

Given the Applicant's failure to submit proposed findings of fact and to provide evidence that met the statutory and regulatory requirements, such effectively amounts to the Applicant asking the SEC to prove a negative, the absence of evidence. This, however, is not in accordance with the statutory and regulatory scheme. For instance, the SEC was required only to issue a written order pursuant to RSA 541-A:35 issuing or denying a certificate and making a "finding regarding the criteria stated in RSA 162-H:16, IV, and Site 301.13 through 301.17." N.H. Code Admin. R. Site 202.28(a). The written decision was also required to "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." RSA 541-A:35.

Unlike the SEC, which complied with its statutory and regulatory obligations when it rendered a thorough and persuasive written decision based upon the evidence before it, the Applicant failed to meet its burden to show that the necessary requirements were met. Moreover, to the extent that the Applicant desired additional factual findings by the SEC, it was the Applicant's obligation to submit proposed findings of fact that the SEC could have then ruled upon. In the end, the SEC was left only with the unconvincing testimony of Mr. Chalmers regarding the alleged impact on property values and undue interference with the orderly development of the region; such was, however, plainly insufficient, especially once the SEC determined that Mr. Chalmers and his evidence were not credible. Accordingly, this case is

straightforward and does not require extensive Supreme Court involvement, except to summarily affirm the SEC's reasonable and well-supported decision.

VI. The Applicant has failed to raise any factual issues in its Notice of Appeal.

The Applicant's Notice of Appeal claims to raise several issues broken into multiple subparts. Although the Notice of Appeal may purport to raise some legal issues, in actuality, the arguments are all of a factual nature and were for the trier of fact – the SEC in this case – to decide. See 93 Clearing House, Inc. v. Khoury, 120 N.H. 346, 350 (1980) (explaining that the "trier of fact is in the best position to measure the persuasiveness of evidence and the credibility of witnesses"). The fact that the Applicant merely disagrees with the reasonable and supportable decision of the SEC does not warrant this Court's acceptance of this appeal. This is especially so here where the Notice of Appeal contains no statement of facts, and, as explained above, the Applicant failed to file any requests for findings of fact below. Nor has the Applicant done anything in its Notice of Appeal to explain why the SEC's decision was clearly unreasonable or unlawful. See RSA 541:13. Thus, the Applicant has no basis for its appeal.

Moreover, the Applicant's Notice of Appeal failed to conform to this Court's rules. Rule 10(1) provides that in an appeal from an agency decision, the appeal or petition "shall as far as possible and in the order listed below . . . (f) Set forth a concise statement of the case containing the facts material to the consideration of the questions presented, with appropriate references to the transcript, if any."

Here, the Statement of the Case begins on page 27 and ends on page 43 in the Applicant's Notice of Appeal. The Applicant identifies its citation form on page 27 in Footnote 2, explaining that the "Hearing Transcript" will be identified as "HT" throughout. Although the Applicant devotes only one page to "The Proceedings" beginning at the bottom of page 28 and continuing

through to the top of page 29 of the Notice of Appeal, the Applicant then spends from page 29 through page 43 on "Deliberations," Motions for Rehearing, and Orders.

However, in contravention of Rule 10, there are no citations to the Hearing Transcript in the Statement of the Case. Nor is there any reference to material facts. Instead, the Applicant cites to the Hearing Transcript a mere seven times in its Notice of Appeal in order to make certain legal arguments. For example, on page 56, there is a cite to "HT A. 817" in support of a burden of proof argument. Similarly, on page 58, at the end of Footnote 30, "HT A. 810" is cited in support of a legal argument regarding the overburdening of easements. The other few citations to the Hearing Transcript are likewise in support of mere legal arguments.[3] Such, however, does not comply with the clear requirements set forth by Rule 10. Further, without proper citation or reference to any material facts, there is, in effect, nothing to support the Applicant's assertions. This, therefore, provides another ground upon which to summarily affirm the SEC's decision, or for this Court to refuse to accept the appeal.

VII. Conclusion

For the reasons discussed above, the Applicant's appeal is a nonstarter, and there is no valid basis for it. Accordingly, the SEC's decision should be summarily affirmed. Alternatively, this Court should decline to accept the Applicant's appeal.

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[3] For example, the Applicant makes the legal argument that the SEC ignored mitigating conditions that were relevant to the effects of the Project on page 66 of the Notice of Appeal when citing to "HT A. 820" and to "HT A. 814" at footnote 37. The Applicant also sets forth a legal argument on page 75 regarding the SEC's decision to reject expert testimony when citing to "HT A. 817" in footnote 53. Likewise, the Applicant cites to a statement by a member of the SEC in deliberations on page 60, citing "HT A. 1268-1269." Finally, on page 77, the Applicant makes a legal argument that the SEC improperly ignored certain evidence when citing to "HT A. 2670."

Respectfully submitted,

MCKENNA'S PURCHASE

By its attorneys,

WADLEIGH, STARR & PETERS P.L.L.C.

Dated: August 30, 2018

By: _____

Stephen J. Judge, Esq., NH Bar # 1292
Stephen Zaharias, Esq., NH Bar #265814
95 Market Street
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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of August 2018, a copy of the foregoing document is being provided to all other parties in the case, either via through an electronic copy being served upon the Distribution List, through this Court's electronic filing system, or via first class mail.

_____

Stephen Zaharias, Esq.

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2018 TERM

FALL SESSION

NO. 2018-0468

APPEAL OF NORTHERN PASS TRANSMISSION, LLC ET AL.

(New Hampshire Site Evaluation Committee)

McKENNA'S PURCHASE'S JOINDER IN THE MOTION TO PERMIT ELECTRONIC SERVICE FILED BY NORTHERN PASS TRANSMISSION LLC AND PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSOURCE ENERGY

NOW COMES McKenna's Purchase Unit Owners Association ("McKenna"), by and through its attorneys, Wadleigh, Starr & Peters, P.L.L.C., and joins in the Motion to Permit Electronic Service filed by Northern Pass Transmission, LLC and Public Service Company of New Hampshire D/B/A Eversource Energy (collectively, the "Applicant"), stating as follows:

1. On or about August 10, 2018, the Applicant filed a Motion to Permit Electronic Service (the "Motion").

2. Rather than repeat the cogent arguments set forth in the Motion, McKenna hereby joins in the Motion and the relief requested therein.

3. Moreover, McKenna states that, until this Court issues an order stating otherwise, McKenna anticipates following the course of the Applicant and will serve any motions and other papers by electronic service in the same manner as the parties did before the SEC.

WHEREFORE, McKenna's Purchase respectfully requests that this Court:

A. Grant the Motion and permit electronic service in this case in the same manner as the parties have become accustomed to before the SEC; and

B. Grant such further relief as is equitable and just.

Respectfully submitted,

MCKENNA'S PURCHASE

By its attorneys,

WADLEIGH, STARR & PETERS P.L.L.C.

Dated: August 30, 2018

By: _____

Stephen J. Judge, Esq., NH Bar # 1292
Stephen Zaharias, Esq., NH Bar #265814
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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of August 2018, a copy of the foregoing document is being provided to all other parties in the case, either via through an electronic copy being served upon the Distribution List, through this Court's electronic filing system, or via first class mail.

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Stephen Zaharias, Esq.