

**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**

July 20, 2016

**ORDER ON PETITIONS TO INTERVENE
(Cowasuck Band of the Pennacook – Abenaki People
and Joseph T. Keenan, Ph.D.)**

I. Background

On October 19, 2015, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively Applicant) submitted an Application to the New Hampshire Site Evaluation Committee (Committee) for a Certificate of Site and Facility (Application) to construct a 192-mile transmission line. The transmission line is proposed to have a capacity rating of up to 1,090 MW, and to run through New Hampshire from the Canadian border in Pittsburg to Deerfield.

On November 2, 2015, pursuant to RSA 162-H:4-a, the Chairman of the Committee appointed a Subcommittee (Subcommittee) to consider the Application.

On December 22, 2015, the Chair of the Subcommittee issued a Procedural Order setting forth a deadline for filing motions to intervene of February 5, 2016.

On March 16, 2016, the Subcommittee received a petition to intervene from the Cowasuck Band of the Pennacook – Abenaki People (Cowasuck Band).

On June 10, 2016, the Subcommittee received a petition to intervene from Joseph T. Keenan, Ph.D. The Applicant objected to Dr. Keenan's petition on June 17, 2016.

This Order addresses the Cowasuck Band and Dr. Keenan's requests to intervene.

II. Standard for Intervention

The New Hampshire Administrative Procedure Act provides that an administrative agency must allow intervention when:

- (a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least 3 days before the hearing;
- (b) The petition states facts demonstrating that the petitioner's rights, duties, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervener under any provision of the law; and
- (c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

See RSA 541-A:32, I. The statute also permits the presiding officer to allow intervention "at any time upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings." RSA 541-A:32, II. The Committee's rules contain similar provisions. *See* N.H. CODE ADMIN. R. ANN. Site 202.11 (b)-(c).

III. Analysis and Findings

A. Cowasuck Band's Petition to Intervene

The Cowasuck Band asserts that it is an Indigenous (Native American Indian) tribal organization that has sought recognition by the federal government. The Cowasuck Band claims that its tribal homelands (N'Dakinna) include New Hampshire, some sections of other New England states and portions of southern Quebec. Claiming that the Project will be constructed on its homelands, the Cowasuck Band argues that the Project will have significant impacts on its substantial rights, privileges, and interest in that homeland. The Cowasuck Band requests that it be allowed to intervene in the proceeding so it can protect its claimed rights and interests.

The Applicant did not respond to the Cowasuck Band's request.

According to the Cowasuck Band's filing, in 1995, it filed a petition for Federal Acknowledgement of Existence as an Indian Tribe with the Department of the Interior, Bureau of Indian Affairs. Notice of the receipt of the petition was published in 60 Fed. Reg. 17614 (April 6, 1995). To date, the Cowasuck Band has not received federal tribal recognition. In the absence of such federal recognition as a tribal entity, the petition to intervene fails to establish that the Cowasuck Band has a substantial right, title, interest or other claim that warrants intervention. The Cowasuck Band has no greater interest in the outcome of this proceeding than any other member of the general public.

For the reason stated above, the Cowasuck Band's petition to intervene is denied.

B. Dr. Keenan's Petition to Intervene

Dr. Keenan owns the Grandview Farm located at 79 Herman Savage Road in Northumberland. Dr. Keenan argues that the Project will be visible from the property and will have an adverse effect on aesthetics and the value of the Grandview Farm. Dr. Keenan further asserts that he erroneously believed that he had filed a petition to intervene in a timely manner and requests that the presiding officer grant his petition to intervene so that he can protect his rights, privileges and interests in this docket. To ensure the orderly and prompt conduct of these proceedings, Dr. Keenan requests that his participation is grouped with the "Non-Abutting Property Owners: Stark, Lancaster, Whitefield, Dalton, and Bethlehem" group of intervenors.

The Applicant objects to Dr. Keenan's request. In support, the Applicant argues that Dr. Keenan's request is untimely and, if granted, will impair the orderly and prompt conduct of these proceedings.

Dr. Keenan's petition establishes a substantial interest in the outcome of the proceedings. The Project, as proposed, will be visible from his property and may affect the aesthetics and the

value of his property. Dr. Keenan's intervention will not impair the orderly and prompt conduct of these proceedings if his participation is combined with other intervenors from the "Non-Abutting Property Owners: Stark, Lancaster, Whitefield, Dalton, and Bethlehem" group of intervenors. Dr. Keenan's request is granted accordingly.

IV. Order

It is hereby ordered that the Cowasuck Band of the Pennacook – Abenaki People's Motion to Intervene is denied; and

It is hereby further ordered that Dr. Joseph T. Keenan's Petition to Intervene is granted subject to the conditions set forth in this Order.

SO ORDERED this twentieth day of July, 2016.



Martin P. Honigberg, Presiding Officer
Site Evaluation Committee