

**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**

September 27, 2016

**ORDER ON SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS'
MOTION FOR REHEARING AND CLARIFICATION REGARDING TRANSCRIPTION**

This Order denies the Motion for Rehearing and Clarification regarding transcription filed by the Society for the Protection of New Hampshire Forests.

I. Background

On August 10, 2016, Northern Pass Transmission LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively the Applicant) filed a Partially Assented to Motion to Have Technical Sessions Transcribed. The Society for the Protection for of New Hampshire Forests (Forest Society) was among the assenting intervenors. Counsel for the Public objected.

On August 29, an Order on the Motion to Transcribe Technical Sessions was issued. The Order denied the Applicant's request to record and transcribe the technical sessions. The Applicant sought clarification and, on September 9, an Order denying the request for a formal order to allow the Applicant to record technical sessions was issued.¹

On September 16, the Forest Society filed a Motion for Rehearing and Clarification Regarding Transcription. The following parties concurred in the Forest Society's Motion: Town of

¹ The September 9 Order noted that nothing in the original Order denying transcription of the technical sessions was intended to preclude the parties, including the Applicant, from taking notes or making otherwise lawful recordings of technical sessions for their convenience, and reminded all of the parties that such informal recordings are not part of the official record in these proceedings.

Woodstock; Town of Easton; Town of Franconia; Town of Plymouth; Town of Sugar Hill; Town of New Hampton; Town of Littleton; Town of Ashland Water & Sewer; Town of Woodstock; Town of Deerfield; Town of Bridgewater; Town of Canterbury; Town of Pembroke; City of Concord; The National Trust for Historic Preservation; Grafton County Commissioners; and Abutting Property Owners: Pittsburg-Clarksville-Stewartstown. Counsel for the Public objects to the Motion for Rehearing and Clarification, and the Cities of Berlin and Franklin take no position.

II. Standard

Pursuant to RSA 541:3:

Within 30 days after any order or decision has been made by the commission, any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion all grounds for rehearing, and the commission may grant such rehearing if in its opinion good reason for the rehearing is stated in the motion.

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. RULES, Site 202.29.

III. Analysis

The Forest Society argues that the Order denying the Applicant's request for transcription of technical sessions is at odds with prior orders of the Site Evaluation Committee in other dockets. The Forest Society further argues that the Order is unreasonable because public

meetings are transcribed and it is unreasonable to permit recording of one form of public hearing, but not another. The Forest Society next argues that the Order does not comport with the statutory and regulatory regime for adjudicative proceedings.

The Forest Society also suggests that the Order is having unintended consequences that undermine the Chair's stated goal of encouraging useful dialog that does not disadvantage *pro se* parties or lead to more disputes that will lengthen the time to complete technical sessions or otherwise hinder the proceeding. The Forest Society argues that the fact that depositions are an available discovery method is inapposite, as depositions of the Applicant's witnesses would serve as a duplicative process and would disadvantage *pro se* participants who are less likely to have the time and financial resources necessary for such depositions. The Forest Society submits that the technical sessions may take longer because, without the availability of a court reporter, it is more difficult for parties to keep track of the proceedings resulting in duplicative questions and answers. The Forest Society notes that multiple parties have already attempted to record and document the proceedings and that informal transcriptions may result. The Forest Society argues that this fosters inequity among docket participants and that, due to human and technological error, conflicting accounts of what was said are likely to result.

The Forest Society requests rehearing on the issue of transcription and that the Chair consider subjecting the remaining scheduled technical sessions to formal recording and transcription. The Forest Society also asks the Chair to clarify that any and all information developed in this proceeding can be used for any lawful purpose that does not delay or disrupt the proceeding.

The Motion for Rehearing does not state good reason for rehearing. It does not identify any error of fact, reasoning, or law that the Forest Society wishes to have reconsidered, nor does

it describe how such purported error causes the Order to be unlawful, unjust, or unreasonable. The Motion also raises issues and makes arguments not previously raised in support of the original request for transcription, none of which is compelling. Having a court reporter would not make the technical sessions go more quickly or keep the parties more organized. Since the technical sessions are informal by design, the existence of an official transcript is not significant. The Forest Society's request for rehearing is denied.

The Forest Society's request for a formal order clarifying that any and all information developed in this proceeding can be used for any lawful purpose that does not delay or disrupt the proceeding is denied as well. The Chair reiterates the position set forth in the Order on Motions to Transcribe Technical Session dated August 29, 2016. The information provided by the experts and other witnesses at technical sessions is not designed and should not be used for impeachment purposes.

SO ORDERED this twenty-seventh day of September, 2016.



Martin Honigberg, Presiding Officer
Site Evaluation Committee