

**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**

December 13, 2016

**ORDER ON LAGASPENCE REALTY'S MOTION FOR RECONSIDERATION OF
ORDER DENYING MOTION TO COMPEL RESPONSES
TO DATA REQUESTS DIRECTED TO JULIA FRAYER**

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.

A Technical Session was held on September 16, 2016, at which the Applicant's witness, Julia Frayer, was made available to discuss the Project economics and market benefits. At the Technical Session, Ms. Frayer was asked about data that she used in calculating energy cost savings presented in Appendix D of her analysis.

On October 6, 2016, Kevin Spencer and Mark Lagasse d/b/a Lagaspence Realty, LLC (Lagaspence Realty), filed a Motion to Compel Responses to Data Requests Directed to Applicant's Witness Julia Frayer. The Applicant objected on October 14, 2016.

On October 28, 2016, the Presiding Officer issued an Order denying Lagaspence Realty's Motion to Compel. On November 4, 2016, Lagaspence Realty filed a Motion for

Reconsideration of the Order denying Lagaspence Realty's Motion to Compel. The Applicant objected on November 7, 2016.

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. Positions of the Parties

Lagaspence Realty argues that the Order denying its Motion to Compel is unreasonable because it is based on a misapprehension of the nature of the evidence sought. Specifically, Lagaspence Realty argues that the Order was premised on the mistaken assumption that the information sought by Lagaspence Realty is confidential. Lagaspence Realty argues that the information sought is not confidential and should not be treated as such. Lagaspence Realty notes that that it has declined to execute a confidentiality agreement to obtain the information it

seeks, because the information has been submitted by the Applicant in support of the public interest finding required by RSA 162-H:16, IV(e), and such agreements prevent the public from understanding the factual basis of the Committee's determination with respect to public interest, to the extent that such a determination is based upon confidential information. In addition, Lagaspence Realty argues that Ms. Frayer's calculations were based on public data and that redacting her analysis undercuts the Applicant's claim that the Project will save retail customers approximately \$79.9 million dollars.

The Applicant argues that the crux of Lagaspence Realty's Motion to Reconsider does not concern the production of documents Lagaspence Realty sought to compel, but rather it is an untimely and misplaced argument regarding the confidential nature of a particular document. The Applicant reiterates that it has not refused to produce the documents and/or information requested, but instead has indicated that it will provide the information to any party that signs a confidentiality agreement. The Applicant suggests that Lagaspence Realty's underlying Motion to Compel conflates arguments about production of documents with arguments that the information should be publically disclosed. The Applicant argues that Lagaspence Realty does not provide good cause for rehearing, but simply requests a different result. The Applicant submits that Lagaspence Realty does not appear to actually want the information it seeks as it has refused to sign a confidentiality agreement in order to receive such information. Finally, the Applicant argues that the Presiding Officer did not overlook or mistakenly conceive any point of fact or law in his original Order that warrants rehearing.

IV. Analysis

Lagaspence Realty has not stated good reason for rehearing. Lagaspence Realty does not identify any error of fact, reasoning, or law, nor does Lagaspence Realty describe how any

purported error causes the Order to be unlawful, unjust, or unreasonable. Instead, Lagaspence Realty suggests that the information it seeks should not be treated as “confidential,” and therefore a confidentiality agreement should not be required for its disclosure. The issue of confidentiality has been addressed through a series of motions and orders specifically addressing the reasons for the confidential treatment of certain materials. Lagaspence Realty’s attempt to revisit these rulings through its Motion to Reconsider is not good cause to grant rehearing. Lagaspence Realty’s Motion to Reconsider is denied.

SO ORDERED this thirteenth day of December, 2016.



Martin P. Honigberg, Presiding Officer
NH Site Evaluation Committee