

**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**

March 1, 2017

**ORDER ON PENDING MOTIONS
(Procedural Schedule)**

This Order adjusts the procedural schedule in response to a number of well-founded motions. In large part, the new schedule is based on the one suggested by Counsel for the Public, but proposes a sequence that is closer to the timeframes in the existing procedural order, as explained below.

I. Background

On June 23, 2016, a Procedural Order was issued in this docket. The schedule set forth in the Procedural Order has been modified several times.

The Subcommittee received the following motions, objections and responses related the current procedural schedule, all of which are resolved in this Order:

- Municipal Groups 1 South, 2, 3 South, 3 North's Motion to Extend Deadline for Supplemental Pre-filed Testimony, filed February 3;
- Applicant's Motion to Amend Procedural Schedule for Supplemental Testimony and Related Deadlines, filed February 6;
- Counsel for the Public's Response to Municipal Groups' Motion to Extend Deadlines and Applicants' Motion to Amend Procedural Schedule, filed February 10;
- Applicant's Objection to Municipal Groups' Motion to Extend Deadline and Counsel for the Public's Request to Amend Procedural Schedule, filed February 13;
- Municipal Groups 1 South, 2, 3 South, and 3 North's Objection to Applicant's Motion to Amend and Support for Counsel for the Public's Response, filed February 16;
- Response of the Society for the Protection of New Hampshire Forests to Applicants' Motion to Amend Procedural Schedule, Municipal Groups' Motion to Extend

Deadlines and Counsel for the Public's Response to Said Motions Regarding Scheduling, filed February 16; and

- Applicant's Response to Various Procedural Schedule Proposals filed February 27.

II. Positions of the Parties

A. Municipal Groups

The Municipal Groups observe that the technical sessions in this docket will not be completed by February 28, 2017. According to the Municipal Groups, the deadlines currently set forth in the procedural order do not afford them a meaningful opportunity to prepare: (i) supplemental testimony; (ii) pre-hearing motions, stipulations ; (iii) for the final pre-hearing conference. The Municipal Groups request that the Subcommittee adjust the deadlines so that the parties are required to file: (i) supplemental pre-filed testimony fifteen (15) days from the end of the technical session; and (ii) pre-hearing motions and stipulations twenty (20) days from the end of the technical sessions, and that the pre-hearing conference is scheduled twenty-eight (28) days from the end of the technical session. The Municipal Groups admit that amendment of the procedural schedule, as requested, may cause delay of the adjudicative hearings currently scheduled in this docket. At this point, the Municipal Groups do not request a rescheduling of the adjudicative hearings or suspending the deadline set forth for issuance of the Final Order in this docket (September 30, 2017).

B. Applicant

The Applicant agrees that the current procedural schedule does not provide sufficient time for the parties to prepare and submit the required documentation following the last technical session in this docket. The Applicant argues, however, that it is unnecessary to extend the deadlines as requested by the Municipal Groups. The Applicant argues that the following "Track 1" issues have been fully addressed by the parties through discovery and there is no need

for delay in adjudication of these issues: (i) route selection; (ii) Applicant's technical and managerial capabilities; (iii) Applicant's financial capability; (iv) system stability; and (v) public health and safety. According to the Applicant, the only "Track 2" issues that remain, where discovery will not be completed by the parties until after the deadline in the existing procedural schedule, and include: (i) orderly development of the region; (ii) aesthetics; (iii) natural environment and resources; (iv) historic resources; and (v) economic benefits. The Applicant also asserts that issues related to the construction of the Project should be adjudicated separately and should be provided additional time. As a result, the Applicant requests the following amended procedural schedule:

1. Track 1 Technical Session with Counsel for the Public's and Intervenor's witnesses shall be conducted between January 16 and February 15, 2017.
2. Counsel for the Public and Intervenor's shall respond to data requests addressing issues related to: (i) the Applicant's production pursuant to the Order on Motion to Compel and Order on NEPGA's Motion to Compel; (ii) the underground portion of the Project; (iii) the Applicant's response to the Department of Environmental Services' requests; (iv) market economic issues; (v) local economic issues; (vi) natural resources; (vii) aesthetics, including Addendum to the report analyzing impact of the Project on aesthetics filed by Counsel for the Public; and (viii) the Deerfield Abutter's pre-filed testimony on historic issues on or before February 15, 2017.
3. Julia Frayer's updated report and testimony shall be provided on or before February 15, 2017.
4. Track 2 Technical Sessions with the Applicant's witnesses addressing issues related to: (i) the Applicant's production pursuant to the Order on Motion to Compel and Order on NEPGA's Motion to Compel; (ii) the underground portion of the Project; (iii) the Applicant's response to the Department of Environmental Services' requests; and (iv) Ms. Frayer's updated report shall be conducted between February 21 and March 24, 2017.
5. Track 2 Technical Sessions with Counsel for the Public's and Intervenor's witnesses addressing issues related to: (i) market economic issues; (ii) local economic issues; (iii) natural resources; (iv) aesthetics; and (v) the Deerfield Abutter's pre-filed testimony on historic issues shall be conducted between February 21 and March 24, 2017.

6. Supplemental pre-filed testimony from all parties on Track 1 Topics, except for construction issues, shall be filed on March 15, 2017.
7. Pre-Hearing Motions and Statements of Stipulated Facts on Applicants' Testimony on Track 1 Topics, except construction issues, shall be filed on or before March 20, 2017.
8. Pre-Hearing Conference on Applicants' Track 1, except for construction issues shall be conducted on March 28, 2017.
9. Supplemental pre-filed testimony from all parties on construction-related issues shall be filed on April 3, 2017.
10. Adjudicative Hearings shall begin on April 4, 2017.
11. Pre-Hearing Motions and Statements of Stipulated Facts on Applicants' Testimony on construction related issues shall be filed on April 10, 2017.
12. Pre-Hearing Conference on Applicants' Testimony on construction related issues shall be conducted on April 12, 2017.
13. Supplemental pre-filed testimony from all parties on Track 2 topics shall be filed on April 24, 2017.
14. Pre-Hearing Motions and Statements of Stipulated Facts on Applicants' Testimony on Track 2 topics shall be filed on or before April 26, 2017.
15. Pre-Hearing Conference on Applicants' Testimony on Track 2 Topics shall be conducted on April 28, 2017.
16. Pre-Hearing Motions and Statements of Stipulated Facts on Counsel for the Public's and Intervenors' Testimony on Track 1 and 2 Topics shall be filed on or before May 23, 2017.
17. Pre-Hearing Conference on Counsel for the Public's and Intervenors' Testimony on Track 1 and 2 Topics shall be conducted on June 1, 2017.

C. Counsel for the Public

Counsel for the Public agrees that the Applicant's request to split the deadlines for supplemental testimony, motions, and stipulations into two groups based upon the applicable topic is reasonable, but that its proposed schedule does not take into account the lack of time that it leaves for preparing for evidentiary hearings. As an alternative, Counsel for the Public presents an approach that takes into account suggestions by both the Municipal Groups and the

Applicants that he argues will result in an orderly and fair schedule without undue delay and proposes the following schedule:

1. March 27, 2017 – All supplemental testimony (excluding construction) for Track 1 Topics;
2. April 3, 2017 – Motions and Stipulations Facts for Track 1 Topics;
3. April 7, 2017 (and 10 if necessary) – Final Prehearing Conference;
4. April 17, 2017 – Adjudicative Hearings begin;
5. April 12, 2017 – Supplemental testimony on construction;
6. May 15, 2017 – Supplemental testimony on Track 2 Topics;
7. May 29, 2017 – Motions and Stipulations on Track 2 Topics; and
8. June 1 or 2, 2017 – Final Prehearing Conference for Track 2.

D. The Forest Society

The Forest Society argues that implementation of the schedule, as proposed by the Applicant, would create confusion, would be unduly burdensome, and would deprive the parties of their due process rights. The Forest Society states that the Applicant's request to bifurcate the schedule would greatly impact the parties' ability to adequately prepare and strategize.

III. Analysis

The procedural schedule has been adjusted numerous times in the course of this proceeding to address the reality of how complicated things can get when there are this many parties and witnesses, and this many issues to be litigated. The parties are correct now that another adjustment is required. No one, however, has made a proposal that can be adopted in full.

It is not necessary to create the delays required by the Municipal Groups' proposals. While the Applicants' proposed schedule would allow for the timely resolution of issues, the

Forest Society makes a good point that it runs the risk of creating confusion, unnecessary duplication of efforts, and additional work by the parties. Counsel for the Public has made an admirable attempt to take elements from the other proposals to craft something that could work and that is the basic framework of the revised schedule set forth at the end of this Order. However, his proposed schedule provides an additional two months after the final technical sessions for filing supplemental testimony, as compared to the existing schedule that provides for an additional two weeks that is now reasonably expanded to four weeks.

Therefore, to ensure that confusion is avoided, that the parties receive sufficient time to prepare and present their evidence, and to ensure the orderly conduct of the proceedings without undue delay, the following procedural schedule in this docket shall apply, and is amended as follows:¹

1. Technical Sessions with Counsel for the Public's and Intervenors' witnesses shall be conducted between January 16 and February 15, 2017.
2. Counsel for the Public and Intervenors shall respond to data requests addressing issues related to: (i) the Applicant's production pursuant to the Order on Motion to Compel and Order on NEPGA's Motion to Compel; (ii) the underground portion of the Project; (iii) the Applicant's response to the Department of Environmental Services' requests; (iv) market economic issues; (v) local economic issues; (vi) natural resources; (vii) aesthetics; and (viii) the Deerfield Abutter's pre-filed testimony on historic issues on or before February 15, 2017.
3. Julia Frayer's updated report and testimony shall be provided on or before February 15, 2017.
4. Technical Sessions with the Applicant's witnesses addressing issues related to: (i) the Applicant's production pursuant to the Order on Motion to Compel and Order on NEPGA's Motion to Compel; (ii) the underground portion of the Project; (iii) the Applicant's response to the Department of Environmental Services' requests; and (iv) Ms. Frayer's updated report shall be conducted between *February 21 and March 17, 2017*.
5. Technical Sessions with Counsel for the Public's and Intervenors' witnesses addressing issues related to: (i) market economic issues; (ii) local economic issues; (iii) natural resources; (iv) aesthetics; and (v) the Deerfield Abutter's pre-filed

¹ Changes to the procedural schedule are in *bold italics*.

testimony on historic issues shall be conducted between *February 21 and March 17, 2017*.

6. Counsel for the Public's and Intervenors' pre-filed testimony addressing issues related to the stormwater treatment design for the Deerfield Substation, the Franklin Converter Terminal, and Transition Stations #1 and #5 shall be filed on or before February 28, 2017.
7. *A technical session with Julia Frayer addressing Ms. Frayer's updated report was conducted on February 27, 2017.*
8. **Track 1²** - Supplemental pre-filed testimony from all parties on Track 1 topics shall be filed on March 24, 2017.
9. Pre-Hearing Motions and Stipulations on Track 1 Topics shall be filed on or before March 29, 2017.
10. A Pre-Hearing Conference on Track 1 Topics shall be conducted on *April 4, 2017*.
11. Adjudicative Hearings shall begin on April 13, 2017.
12. **Track 2³** - Supplemental pre-filed testimony from all parties on Track 2 topics shall be filed on April 17, 2017.
13. *Pre-Hearing Motions and Stipulations on Track 2 topics shall be filed on or before April 24, 2017.*
14. *A Pre-Hearing Conference on Track 2 topics and construction related issues shall be conducted on April 28, 2017.*

SO ORDERED this first day of March, 2017.



Martin P. Honigberg, Presiding Officer
Site Evaluation Committee

² Track 1 topics include project route selection, Forward NH Plan, financial capability, system stability, and public health and safety (excluding construction related impacts).

³ Track 2 topics include orderly development, aesthetics, air and water quality, natural environment, economic benefit, and construction related impacts.