

**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**

**April 11, 2017**

**REPORT OF PREHEARING CONFERENCE**

**Background**

On April 4, 2017, a prehearing conference was held in the referenced docket. Counsel to the Site Evaluation Committee, Michael J. Iacopino, was the Presiding Officer. This memorandum serves as a report of prehearing conference pursuant to RSA 541-A:31, V(d). Notice pursuant to RSA 541-A:31, V(b) of the prehearing conference was included in the procedural schedule issued on March 1, 2017. The entire prehearing conference was recorded verbatim. This memorandum is meant only as a summary of those matters which should be reported to the Subcommittee. In order to get a more detailed understanding of the prehearing conference, the reader should review the transcript upon its filing.

**Participants**

At the beginning of the prehearing conference, appearances were taken. A list of the attendees at the prehearing conference is attached to this Report of Prehearing Conference. Also present were Pamela Monroe, Administrator for the Site Evaluation Committee, and Iryna Dore of the Brennan Lenehan law firm, who assisted Mr. Iacopino as counsel to the Site Evaluation Committee.

## **General Discussion**

### **Explanation of Prehearing Conference Process**

After taking appearances, the Presiding Officer provided an explanation of the prehearing conference process. The Presiding Officer advised the attendees that the prehearing conference was not an opportunity to advocate for their positions. It was an opportunity for an informal discussion of procedural matters. The attendees were advised that the prehearing conference was being recorded verbatim and were asked to respect the challenges facing the court reporter.

### **Discussion of Scheduling Tracks and Schedule Requirements**

After explaining the prehearing conference, the Presiding Officer invited the parties to express their understanding of the procedural schedule and tracks that were set forth for the final adjudicative hearing by the Order on Pending Motions (Procedural Schedule) dated March 1, 2017. The parties expressed some confusion as to how issues assigned to different “tracks” will be litigated. Some participants understood that each party will be provided the opportunity and present its case on track 1 topics prior to proceeding to track 2 topics. Others, including the Applicant, understood that the Applicant will be required to present its case on all issues regardless if the issue is considered a track 1 or track 2 issue. The tracking was identified to be solely for the purpose of completing discovery and the filing of supplemental testimony.

After discussion, a consensus was reached. The Applicant will present its entire case-in-chief first, before other parties will be required to present witnesses. In response to questions, the presiding officer explained that Counsel for the Public and all other parties will then present their witnesses on all issues in dispute without regard to track designation.

All parties are required to file “track 2” supplemental testimony<sup>1</sup> on or before April 17, 2017.<sup>2</sup> In order to maintain an organized proceeding it was also confirmed that a second prehearing conference will be held April 28, 2017, as required by the Procedural Schedule. By that time all testimony should be filed and the April 28, 2017, prehearing conference will address further scheduling and organization of the proceeding. In addition it was determined that a third prehearing conference will be scheduled at a time after the Applicant has presented its case. The purpose of the third prehearing conference will be to organize the balance of the proceeding.

Some parties expressed confusion as to which issues will be addressed by which witness and were concerned that they might, as a result of confusion, fail to ask questions of the appropriate witness. The parties were advised to carefully read the pre-filed testimony prior to the hearings to understand the issues addressed by each witness.

### **Discussion of Issues in Dispute and Stipulation**

After the discussion of procedural issues, the presiding officer invited the parties to identify the issues in dispute and to advise the parties of any stipulations. The Applicant advised there have been negotiations with some of the municipalities but no formal stipulations have been reached. Mr. Bilodeau advised the parties that he invited the Applicant to enter into negotiations and received no response.

All issues remain in dispute.

### **Discussion of Witness Schedule and Order of Cross Examination**

The Applicant presented the following schedule of witnesses who will appear prior to the filing of track 2 supplemental testimony.

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<sup>1</sup> “Track 2” issues include orderly development of the region; aesthetics; historic resources; natural environment and resources; economic impacts and benefits; and construction related issues.

<sup>2</sup> See Order on Pending Motions (Procedural Schedule), March 1, 2017, p. 7.

<b>Witness</b>	<b>Estimated Date</b>
William Quinlan	4/13/2017
Kenneth Bowes Michael Auseré	4/14/2017 - 4/17/2017
William Bailey Gary Johnson Doug Bell	4/18/2017
Robert Andrew	4/19/2017

The parties agreed to the following order of cross-examination of the Applicant's witnesses:

1. Business and Organizations with Economic Interests - Cate Street Capital, Inc.; International Brotherhood of Electrical Workers; Coos County Business and Employers Group; North Country Chamber of Commerce; and Dixville Capital, LLC and Balsams Resort Holdings, LLC, as a group;
2. City of Franklin and City of Berlin;
3. Wagner Forest Management, as a single party;
4. Counsel for the Public;
5. Municipal Group 1-North;
6. Municipal Group 1-South;
7. Municipal Group 2;
8. Municipal Group 3-North;
9. Municipal Group 3-South;
10. Grafton County Commissioners;
11. Society for the Protection of NH Forests;
12. Appalachian Mountain Club, Conservation Law Foundation, and Ammonoosuc Conservation Trust, as a group;
13. NEPGA - Limited Intervention;

14. Clarksville and Stewartstown - Abutting and Non Abutting (combined groups of intervenors);
15. Dummer, Stark, and Northumberland - Abutting Property Owners;
16. Whitefield, Dalton, and Bethlehem - Abutting Property Intervenors;
17. Bethlehem to Plymouth - Abutting Property Owners (underground portion);
18. Ashland, Northfield, Canterbury, Allenstown, and Concord - Abutting Property Owners;
19. Deerfield - Abutting Property Owners;
20. Phillip H. Bilodeau and Joan C. Bilodeau - Limited Intervention;
21. Stark, Lancaster, Whitefield, Dalton, and Bethlehem - Non-Abutting Property Owners;
22. Bethlehem to Plymouth - Non-Abutting Property Owners;
23. Ashland to Deerfield - Non-Abutting Property Owners;
24. Sugar Hill Historical Museum, NH Preservation Alliance and National Trust for Historic Preservation, North Country Scenic Byways Council, as a group; and
25. Pemigewasset River Local Advisory Committee, as a single party.

**Identification of Spokesperson for Each Intervenor  
for the Purposes of Cross-Examination**

After identifying the order of cross-examination, the Presiding Officer asked the parties to identify the spokespersons for the purposes of cross-examinations. The parties expressed confusion as to who can cross-examine witnesses on behalf of the group and whether they can conduct their individual cross-examination. The parties were reminded about the outstanding orders stating that the spokesperson for each group is required to conduct the cross-examination. The parties also were reminded that there may be different spokespersons addressing different issues. The parties were encouraged to identify these spokespersons in advance. The following

spokespersons for the cross-examination of the following witnesses were identified as a result of a pre-hearing conference:

	Quinlan	Bowes/Auseré	Bailey/ Johnson/Bell	Andrew
Business and Organizations with Economic Interests - Cate Street Capital, Inc.; International Brotherhood of Electrical Workers; Coos County Business and Employers Group; North Country Chamber of Commerce; and Dixville Capital, LLC and Balsams Resort Holdings, LLC, as a group	Attorney Beliveau			
City of Franklin and City of Berlin	Attorney Boldt or Attorney Maher	Attorney Boldt or Attorney Maher	Attorney Boldt or Attorney Maher	Attorney Boldt or Attorney Maher
Wagner Forest Management, as a single party	Not Present	Not Present	Not Present	Not Present
Counsel for the Public	Attorney Roth or Attorney Pappas	Attorney Roth or Attorney Pappas	Attorney Roth or Attorney Pappas	Attorney Roth or Attorney Pappas
Municipal Group 1-North	Steve Ellis	Steve Ellis	Steve Ellis	Steve Ellis
Municipal Group 1-South	Attorney Whitley	Attorney Whitley	Attorney Whitley	Attorney Whitley
Municipal Group 2	Attorney Fillmore or Attorney Tanguay	Attorney Fillmore or Attorney Tanguay	Attorney Fillmore or Attorney Tanguay	Attorney Fillmore or Attorney Tanguay
Municipal Group 3-North	Attorney Whitley	Attorney Whitley	Attorney Whitley	Attorney Whitley
Municipal Group 3-	Attorney Pacik	Attorney Pacik	Attorney Pacik	Attorney Pacik

South				
Grafton County Commissioners	Attorney Saffo or substitute	Attorney Saffo or substitute	Attorney Saffo or substitute	Attorney Saffo or substitute
Society for the Protection of NH Forests	Attorney Reimers	Attorney Reimers	Attorney Boepple	Attorney Boepple
Appalachian Mountain Club, Conservation Law Foundation, and Ammonoosuc Conservation Trust, as a group	Attorney Birchard	Attorney Birchard	Attorney Birchard	Attorney Birchard
NEPGA - Limited Intervention	Not Present	Not Present	Not Present	Not Present
Clarksville and Stewartstown - Abutting and Non Abutting (combined groups of intervenors)	Mr. Thompson	Mr. Thompson	Mr. Thompson	Mr. Thompson
Dummer, Stark, and Northumberland - Abutting Property Owners	Attorney Cunningham	Attorney Cunningham	Ms. Percy	Ms. Percy
Whitefield, Dalton, and Bethlehem - Abutting Property Intervenors	Mr. Van Houten	Mr. Van Houten	Mr. Van Houten	Mr. Van Houten
Bethlehem to Plymouth - Abutting Property Owners (underground portion)	Mr. Palmer or substitute	Mr. Palmer or substitute	Mr. Palmer or substitute	Mr. Palmer or substitute
Ashland, Northfield, Canterbury, Allenstown, and Concord - Abutting Property Owners	Attorney Judge and/or Ms. Lee	Ms. Lee	Ms. Lee	Ms. Lee
Deerfield - Abutting Property Owners	Ms. Maynard	Mr. Cote or substitute	Ms. Bradbury	Mr. Cote or substitute
Phillip H. Bilodeau and Joan C. Bilodeau - Limited Intervention	Attorney Hogan or Mr. Bilodeau	Attorney Hogan or Mr. Bilodeau	Attorney Hogan or Mr. Bilodeau	Attorney Hogan or Mr. Bilodeau
Stark, Lancaster, Whitefield, Dalton, and Bethlehem - Non-				

Abutting Property Owners				
Bethlehem to Plymouth - Non-Abutting Property Owners	Ms. Quinn	Ms. Quinn	Ms. Quinn	Ms. Quinn
Ashland to Deerfield - Non-Abutting Property Owners	Charlotte Crane			
Sugar Hill Historical Museum, NH Preservation Alliance and National Trust for Historic Preservation, North Country Scenic Byways Council, as a group	Not Present	Not Present	Not Present	Not Present
Pemigewasset River Local Advisory Committee, as a single party	TBD	TBD	TBD	TBD

### **Duration of Adjudicative Hearing**

After identifying spokespersons, the parties expressed concerns regarding the daily schedule of the adjudicative hearing. The hearings will begin at 9:00 a.m. on each scheduled day. Many intervenors requested that adjudicative hearings adjourn each day at 4:30 P.M. In support, they stated that many of the parties will travel long distances to attend the hearings and will have to spend some time each evening to prepare for the next day of the hearing. The Applicant expressed their desire to conduct the adjudicative hearing until as late as possible. The parties were advised that, in general, the hearing will be adjourned for the day between 4:30 P.M. - 5:15 P.M. Nevertheless flexibility may be required to maintain a reasonable schedule and to conclude the hearings within a reasonable amount of time.

Some participants expressed concern that the Applicant's schedule for its first set of witnesses (see section above) is overly aggressive and unrealistic. The presiding officer advised



the parties that no one would be denied the opportunity to properly examine a witness. If the examinations of a witness/witness panel cannot be completed in accordance with the schedule the Chairman will determine the most appropriate scheduling action.

### **Public Comments**

After discussion of the duration of the hearing, the parties were advised that two half days of the hearings will be designated for public comments. Counsel for the Public recommended designating a time period each day of the adjudicative hearing for public comments. The possibility of pre-registering for public comments was discussed. The parties raised their concerns about the lack of technology that would allow for pre-registration. Finally, the parties were advised that intervenors will not be allowed to present public comments because they have the opportunity to present their evidence, testimony, and arguments during the hearing.

### **Exhibits**

After discussion of the public comments, the parties engaged in a discussion of exhibits. The parties agreed that, in general, they would prefer not to provide and/or exchange exhibits on paper. They further agreed to exchange exhibits between and among each other on thumb drives. The Forest Society asserted, however, that some visual simulations should be reviewed by the Subcommittee on paper. The Forest Society was advised that photosimulations can be filed on paper. The Forest Society further requested that the parties mark thumb drives and information contained on the thumb drives consistent with the parties' exhibit lists.

Counsel for the Public advised the parties that it will not be able to provide his exhibits to other parties on thumb drives due to the volume of exhibits. He suggested that the parties may use information posted online as exhibits. The presiding officer pointed out that such a proposal was unfair to the parties because they would not have marked copies of the exhibits to reference.

This will also cause undue delay in the progress of the proceedings as various parties will be required to search out the documents referenced by Counsel for the Public.

Counsel for the Public advised the Presiding Officer that it does not object to providing exhibits to the Subcommittee members on external hard drives, but objected to providing the same to other parties in this docket. The parties discussed the possibility of using the discovery website used by the parties (sharefile) as an option. Various parties raised concerns about accessibility and ability to use the sharefile website.

***It has been determined that all parties will provide two paper copies and 8 flash drives or hard drives to the Committee by 4:30 p.m. on April 12, 2017.***

***Each party is responsible for assuring that it provides every other party with one complete set of marked exhibits by electronic means. Parties are free to waive the requirement from another party or to agree to a different method of exchange. In the absence of such agreement, each party must provide a marked electronic copy of its exhibits to all other parties.***

Exhibits exchanged electronically must be in readily accessible formats such as .PDF, .JPEG, .AVI, Word, Excel .RTF or .TXT.

Final exhibit lists must accompany the filing of exhibits and be exchanged amongst the parties.

A number of parties asked to change their designation abbreviations for the purposes of exhibits. The parties shall use the designation abbreviations set forth in the recommendation below.

The parties unanimously opposed the requirement to pre-mark impeachment exhibits. To avoid delays during the adjudicative hearing, the parties agreed to have sufficient copies of

impeachment exhibits available to the Subcommittee members and other parties during the adjudicative hearing.

The parties were advised that, unless allowed by the Presiding Officer, witnesses who did not submit prefiled testimony will not be allowed to testify during the adjudicative hearing.

**Recommendation for Procedural Schedule Based on the Discussions  
Held at the Prehearing Conference**

The following is recommended in order to address the issues that must be resolved in the short term:

1. Exhibits shall be pre-marked consistent with the following designations:

	<b>Parties</b>	
<b>1</b>	Applicant	APP
<b>2</b>	Business and Organizations with Economic Interests - Cate Street Capital, Inc.; International Brotherhood of Electrical Workers; Coos County Business and Employers Group; North Country Chamber of Commerce; and Dixville Capital, LLC and Balsams Resort Holdings, LLC, as a group	BUS
<b>3</b>	City of Franklin and City of Berlin	(FRANKLIN – BERLIN)
<b>4</b>	Wagner Forest Management, as single party	WAGNER
<b>5</b>	Council for the Public	CFP
<b>6</b>	Municipal Group 1 North	MUNI-1-N
<b>7-10</b>	Municipal Group 1 South, Group 2, Group 3-North, Group 3-South	JTMUNI
<b>11</b>	Grafton County Commissioner’s	GRAFTON
<b>12</b>	Society for the Protection of NH Forest	SPNF
<b>13</b>	Appalachian Mountain Club, Conservation Law Foundation, and Ammonoosuc Conservation Trust, as a group	NGO
<b>14</b>	NEPGA - Limited Intervention	NEPGA
<b>15</b>	Clarksville and Stewartstown - Abutting and Non Abutting (combined groups of intervenors)	CS
<b>16</b>	Dummer, Stark, and Northumberland - Abutting Property Owners	DMA
<b>17</b>	Whitefield, Dalton, and Bethlehem - Abutting Property Intervenors	WHITEFIELD-BETHLEHEM-ABTR

<b>18</b>	Bethlehem to Plymouth - Abutting Property Owners (underground portion)	APOBP
<b>19</b>	Ashland, Northfield, Canterbury, Allenstown, and Concord - Abutting Property Owners	ASHLAND- CONCORD-ABTR
<b>20</b>	Deerfield - Abutting Property Owners	DFLD
<b>21</b>	Phillip H. Bilodeau and Joan C. Bilodeau - Limited Intervention	BILODEAU
<b>22</b>	Stark, Lancaster, Whitefield, Dalton, and Bethlehem - Non-Abutting Property Owners	NAPO-SB
<b>23</b>	Bethlehem to Plymouth - Non-Abutting Property Owners	BETHLEHEM- PLYMOUTH-N-ABTR
<b>24</b>	Ashland to Deerfield - Non-Abutting Property Owners	AD-N-ABTR
<b>25</b>	Sugar Hill Historical Museum, NH Preservation Alliance and National Trust for Historic Preservation, North Country Scenic Byways Council, as a group	HIST
<b>26</b>	Pemigewasset River Local Advisory Committee, as single party	PEMI

2. All parties shall file with the Administrator of Site Evaluation Committee eight (8) thumb drives or other electronic devices and two (2) paper copies of exhibits they intend to use during the adjudicative hearing (track 1) by April 12, 2017.
3. The thumb drives and other electronic devices shall clearly identify exhibits contained therein. Such identification shall be consistent with the exhibit list.
4. The parties are not required to file or exchange impeachment exhibits in advance.
5. All parties shall file their remaining supplemental testimony (previously referenced as track 2) on or before 4:30 p.m. on April 17, 2017.
6. To the extent it has not already done so, the Applicant shall supplement its exhibit list and file its exhibits for the balance of the proceeding on or before 4:30 p.m. on April 24, 2017.
7. To the extent not already filed, all parties shall supplement their exhibit lists and file all remaining exhibits for the balance of the proceeding on or before 4:30 p.m. on April 24, 2017.
8. All remaining prehearing motions from any party and all stipulations shall be filed on or before 4:30 p.m. on April 24, 2017.

9. A second prehearing conference will be held on April 28, 2017 at 9 a.m. at 49 Donovan Street, Concord NH. The parties should expect to address issues relating to the Applicant's remaining witnesses and any other matter pertaining to the orderly conduct of the proceeding.
10. The Applicant shall file its witness list and witness schedule for the balance of its case-in-chief by April 28, 2017.
11. Counsel for the Public and all parties other than the Applicant shall file witness lists and schedules at a time to be determined after a further prehearing conference.
12. A third prehearing conference will be scheduled to address the presentation and scheduling of witnesses for all parties other than the Applicant. The Administrator will provide notice of the date and time for the third prehearing conference.
13. The Administrator will issue a notice scheduling additional oral public comment sessions.
14. Written public comments will be accepted through the conclusion of the proceeding and considered by the Subcommittee during deliberations.

The prehearing conference was adjourned.



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Michael J. Iacopino  
Counsel to the Site Evaluation Committee

#### **Order on Recommendation**

The foregoing Report of Prehearing Conference is approved and adopted. The Recommendation for Procedural Schedule is adopted as a procedural order.

SO ORDERED, this eleventh day of April, 2017.



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Martin P. Honigberg, Presiding Officer  
Site Evaluation Committee