

**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**

May 26, 2017

ORDER ON APPLICANT'S MOTION TO CLARIFY

This Order denies the Applicant's Motion for Clarification of Site 301.08(d)(2)b., regarding the provisions of financial assurance required for decommissioning.

I. Background and Positions of the Parties

The Applicant requests what it calls "clarification" or a waiver of the provisions of N.H. CODE ADMIN. RULES Site 301.08(d)(2)b., which requires the Applicant to submit a decommissioning plan that includes "[t]he provision of financial assurance in the form of an irrevocable standby letter of credit, performance bond, surety bond, or unconditional payment guaranty executed by a parent company of the facility owner maintaining at all times an investment grade credit rating." The Applicant seeks an order saying that the forms of financial assurance listed in the rule are not exclusive and are simply examples of what is acceptable. In the alternative, the Applicant requests waiver of the requirements of N.H. CODE ADMIN. RULES, Site 301.08 (d)(2)b., if the Presiding Officer finds that the forms of financial assurance listed are exclusive. Counsel for the Public objects.

In support of its motion, the Applicant asserts that the Transmission Service Agreement (TSA) and the parent company guaranty from Hydro Quebec provide a viable and effective alternative form of financial assurance for decommissioning. In the first instance, the Applicant

asserts that the proposed financial assurance meets the requirements of the rule. The Applicant then argues that in the event that the TSA and the parent company guaranty do not meet the letter of the rule, that the proposed financial assurance satisfies the purpose of the rule by an alternative method, concluding that a waiver will be in the public interest and will not disrupt the orderly and efficient resolution of this matter.

Counsel for the Public argues that the language of N.H. CODE ADMIN. RULES Site 301.08(d)(2)b. is clear and that the Applicant should be required to provide one of the forms of financial assurance for decommissioning specifically enumerated in the rule. Counsel for the Public asserts that recent public comments of Hydro-Québec reveal that the Transmission Service Agreement may not provide the required assurance for decommissioning funding. Counsel for the Public also argues that the Applicant's waiver request should be denied because the Subcommittee has already denied the same request in the Order on Applicant's Request for Partial Waiver Under the Newly Adopted SEC Rules, dated June 23, 2016.

II. Analysis and Findings

N.H. CODE ADMIN. RULES Site 301.14(f)(1) provides that while determining whether the Project will have an unreasonable adverse effect on public health and safety, the Subcommittee is required to consider the information submitted pursuant to N.H. CODE ADMIN. RULES Site 301.08, including the financial assurance provision at issue here.

Pursuant to N.H. CODE ADMIN. RULES Site 302.05(a), the Subcommittee "shall waive any of the provisions of this chapter, except where precluded by statute, on its own motion or upon request by an interested party" after finding that: (i) the waiver serves the public interest; and (ii) the waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.

The Subcommittee will make a decision of the Project's effect on public health and safety, including the sufficiency of the decommissioning plan, after considering all evidence in this docket and hearing the testimony and arguments. It is premature to render a decision as to whether it is in the public interest to waive provisions of the N.H. CODE ADMIN. RULES Site 301.08(d)(2)b. without hearing the testimony that will be presented through direct and cross-examination. It is similarly premature to render a decision as to whether N.H. CODE ADMIN. RULES Site 301.08(d)(2)b. allows for an alternative form of financial assurance for decommissioning. The Applicant's Motion is denied without prejudice. The issues raised by the Motion will, if necessary, be determined during the pendency of the proceeding.

SO ORDERED this 26th day of May, 2017.



Martin P. Honigberg, Presiding Officer
Site Evaluation Committee