

**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 30, 2017**

**ORDER ON THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.'S  
MOTION TO STRIKE PORTIONS OF THE PRE-FILED TESTIMONY OF  
JULIA FRAYER AND PORTIONS OF THE LONDON ECONOMICS  
INTERNATIONAL LLC REPORT**

This Order denies a motion filed by the New England Power Generators Association, Inc., to strike pre-filed testimony and portions of the London Economics International, LLC Report.

**I. Background**

On April 24, 2017, New England Power Generators Association, Inc. (NEPGA), filed a Motion to Strike Portions of the Pre-Filed Testimony of Julia Frayer and Portions of the London Economics International, LLC Report (LEI). The Society for the Protection of New Hampshire Forests joined in NEPGA's request on April 28, 2017. The Applicant objected on May 4, 2017.

**II. Standard of Review**

RSA 541-A:33, II provides the foundation for the admissibility of evidence in administrative proceedings:

The rules of evidence shall not apply in adjudicative proceedings. Any oral or documentary evidence may be received; but the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidence offered may be made and shall be noted in the record. Subject to the foregoing

requirements, any part of the evidence may be received in written form if the interests of the parties will not thereby be prejudiced substantially.

The touchstone for admissibility in administrative proceedings is relevance and the avoidance of immaterial or unduly repetitious evidence. *See id.* The Motion to Strike must be considered in light of RSA 541-A:33, II.

### **III. Positions of the Parties**

NEPGA moves to strike portions of Ms. Frayer's original (October 16, 2015) pre-filed testimony and a portion of the original report prepared by LEI. The Motion focuses on the information addressing the purported capacity savings associated with construction and operation of the Project. Following submission of the original testimony and report, the Federal Regulatory Energy Commission approved, and ISO-NE has adopted, new zonal demand curves. Based on new demand curves, LEI revised its report to reflect the updated demand curves. Ms. Frayer amended her testimony and the original report to reflect the revised calculations and conclusions. NEPGA seeks to strike the portions of Ms. Frayer's original testimony and portions of the report that address the estimated capacity savings based on the outdated demand curves.

The Applicant objects to NEPGA's request and explains that the amended testimony and report is meant to update the original filings. The Applicant asserts that it is unnecessary to strike portions of Ms. Frayer's pre-filed testimony and report where it is clear as to the portions of the report and testimony that were updated and which remained the same.

### **IV. Analysis and Order**

Ms. Frayer's supplemental pre-filed testimony and report were not intended to be a substitute for the original testimony and report. Both the supplemental and the original filings unambiguously identify the portion that is being updated. NEPGA seeks to strike information

related to the degree of the impact of the changes to the demand curves on estimated benefits of the Project. Having both the original and updated information should assist the Subcommittee in its review of the impacts and benefits of the Project. NEPGA's Motion to Strike the Portion of the Pre-Filed Testimony of Julia Frayer and Portions of the London Economics International, LLC Report is denied.

SO ORDERED this thirtieth day of May, 2017:

A handwritten signature in black ink, appearing to read 'M. Honigberg', is written over a horizontal line.

Martin P. Honigberg, Presiding Officer  
Site Evaluation Committee