

**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**

**July 14, 2017**

**ORDER ON APPLICANT'S MOTION FOR CLARIFICATION AND/OR REHEARING  
(Forward NH Plan)**

This Order grants the Applicant's request for clarification to the extent that the Order on the Motion to Strike did not constitute a decision on the proper interpretation of RSA 162-H:16, IV(e).

**I. Background**

On March 29, 2017, the Society for the Protection of New Hampshire Forests (Forest Society) filed a Motion to Strike Portions of the Applicant's Forward NH Fund. The Applicant timely objected. On May 26, 2017, an Order on Motion to Strike (Order) was issued, denying the Forest Society's Motion. The Applicant moved for Clarification and/or Rehearing of the Order. Counsel for the Public and the Forest Society objected.

**II. Position of the Parties**

The Order provides that the Subcommittee "will consider all of the impacts and benefits of the Project in determining whether to grant or deny a Certificate" and will "determine whether the benefits of the Project outweigh any adverse effect." Order at p. 5. The Applicant argues that those statements may be construed as a finding that RSA 162-H:16, IV(e) requires the Subcommittee to conduct a "net benefits test" while determining whether the Project is in public interest and requests clarification and confirmation that the Order did not interpret the

requirements of RSA 162-H:16, IV(e). In the alternative, the Applicant requests rehearing and a finding that, while determining whether the Project is in the public interest under RSA 162-H:16, IV(e), the Subcommittee does not have to balance the Project's impacts and benefits, but must consider the Project's benefits.

Counsel for the Public argues that the Order contains the "correct standard" required for finding of public interest under RSA 162-H:16, IV(e). Counsel for the Public further argues that the purported interpretation of RSA 162-H:16, IV(e) set forth in the Order as requiring consideration of all benefits and impacts of the Project while determining whether the Project is in the public interest is supported by clear the language of RSA 162-H:1 and RSA 162-H:16, IV(e), by the legislative history, and case law. Counsel for the Public requests that the Presiding Officer deny the Applicant's Motion and reject the Applicant's interpretation of the public interest under RSA 162-H:16, IV(e).

The Forest Society argues that no clarification is needed because it is clear from the plain language of the Order that it did not address the issue of interpretation and application of the public interest set forth at RSA 162-H:16, IV(e). The Forest Society also argues that the Applicant's interpretation of RSA 162-H:16, IV(e) is contrary to the statute and the administrative rules and is not supported by legislative history and case law.

### **III. Analysis**

The Order on Motion to Strike neither considered nor addressed the requirements of RSA 162-H:16, IV(e). Neither the Forest Society in its Motion to Strike nor the Applicant in its Objection addressed the issue of the statutory construction of RSA 162-H:16, IV(e). It is clear, from Counsel for the Public's objection, however, that he interpreted the order as recognizing the "correct standard" required to interpret and apply RSA 162-H:16, IV(e). To avoid any

confusion, the Applicant's request for clarification is granted. The Order did not, nor was it intended to, interpret the standard of review under RSA 162-H:16, IV(e) or its legislative history. The Applicant's request for rehearing is moot and requires no further order.

SO ORDERED this fourteenth day of July, 2017.



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Martin P. Honigberg, Presiding Officer  
Site Evaluation Committee