

**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 MOTION FOR REHEARING  
(Forward NH Plan)**

This Order denies the Society for Protection of New Hampshire Forest's (Forest Society) Motion for Rehearing of the Order Denying its Motion to Strike Portion of the Applicant's Forward NH Plan.

**I. Background**

On March 29, 2017, the Forest Society filed a Motion to Strike Portions of the Applicant's Forward NH Fund and the Applicant objected. On May 26, 2017, an Order was issued denying the Forest Society's Motion to Strike (Order). The Forest Society filed a timely Motion for Rehearing of the Order and a subsequent supplement, and the Applicant objected.

**II. Standard**

N.H. CODE ADMIN. RULES Site 202.29, provides that a motion for rehearing shall:

- (1) Identify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered;
- (2) Describe how each error causes the committee's order or decision to be unlawful, unjust or unreasonable;
- (3) State concisely the factual findings, reasoning or legal conclusion proposed by the moving party; and

(4) Include any argument or memorandum of law the moving party wishes to file.

A request for a rehearing may be made by “any party to the action or proceeding before the commission, or any person directly affected thereby.” RSA. 541:3. Motions for rehearing must specify “all grounds for rehearing, and the commission may grant such rehearing if in its opinion good reason for the rehearing is stated in the motion.” *Id.* Any motion for rehearing “shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.” RSA 541:4.

“The purpose of a rehearing is to direct attention to matters said to have been overlooked or mistakenly conceived in the original decision, and thus invite reconsideration upon the record to which that decision rested.” *Dumais v. State of New Hampshire Pers. Comm.*, 118 N.H. 309, 311 (1978) (internal quotations omitted). A rehearing may be granted upon a finding of “good reason.” See RSA 541:3. A motion for rehearing must be denied where no “good reason” or “good cause” has been demonstrated. See *O’Loughlin v. N.H. Pers. Comm.*, 117 N.H. 999, 1004 (1977); see also *In re Gas Service, Inc.*, 121 N.H. 797, 801 (1981).

### **III. Position of the Parties**

The Forest Society argues that it was error to construe its argument as distinguishing between “naturally occurring impacts or benefits” and “other types of benefits provided by the applicant.” The Forest Society asserts that it never claimed that the statute and rules distinguish between different types of benefits, but argued that the statute requires the benefits to have some nexus to the siting, construction, and operation of the Project to be relevant and admissible. The Forest Society also claims an error of law in the Order by finding that RSA 162-H:1 requires consideration of impacts and benefits to the whole State. The Forest Society claims further error in the Order’s cite to specific rules requiring consideration of off-site mitigation methods.

According to the Forest Society, the Order incorrectly construed the requirement to be that the Subcommittee can consider any off-site impacts or benefits. Finally, the Forest Society asserts that the Order is unjust because it allows the Applicant and any future applicants to offer unrelated economic benefits to offset impacts of a project on orderly development, environment, aesthetics, water and water quality, and public health and safety.

The Applicant argues that there is no error of law and the Order properly determined that the statute and rules allow the Subcommittee to consider any benefits, direct and indirect, associated with the Project. The Applicant also argues that the record does not support the Forest Society's claim that the Subcommittee misconstrued the Forest Society's argument; and that the Order demonstrates that the Subcommittee considered benefits as related and unrelated to the Project, specifically stated that the term "naturally occurring" benefits was introduced by Mr. Quinlan, and (similar to the Forest Society) used the term for simplification purposes only.

#### **IV. Analysis**

The Forest Society's Motion for Rehearing does not state good cause for rehearing. The Forest Society's assertion that its argument was misconstrued is not supported by the record. The Order specifically states that the Forest Society "argues that this information should be excluded because it does not 'relate to the siting and construction of the Project.'" The Order specifically acknowledges, by footnote, that the Forest Society's definition of "naturally occurring" was not based on the statute or rules, but was taken from the testimony of Mr. Quinlan. A review of the Forest Society's Motion to Strike further indicates that the Forest Society found it "useful" to classify the Project's benefits as "naturally occurring" and "not naturally occurring." The Forest Society chose to classify benefits that relate to the siting and construction of the Project as "naturally occurring." The Order simply accepted the use of the


term and identified and considered benefits that relate to the siting and construction of the Project as “naturally occurring” benefits.

The analysis in the Order provides that the statute and rules allow the Subcommittee to consider off-site impacts or benefits of the Project. Disagreement with that analysis does not establish good cause for rehearing.

The argument that future projects may be affected by the statutory interpretation was raised by the Forest Society in its original Motion to Strike. The argument simply reiterates the Forest Society’s disagreement with the statutory interpretation and does not warrant rehearing.

The Forest Society failed to demonstrate that the Order resulted from any error of fact, reasoning, or law or is otherwise unjust, unlawful or unreasonable. The Motion for Rehearing is denied.

SO ORDERED this fourteenth day of July, 2017.



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Martin P. Honigberg, Presiding Officer  
Site Evaluation Committee