

**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**

September 19, 2017

**ORDER ON MOTION TO SUSPEND ADJUDICATORY HEARING AND
RECALL THE CONSTRUCTION PANEL**

This Order grants in part and denies in part the Motion to Suspend the Adjudicatory Hearing and Recall the Construction Panel filed by the Grafton County Commissioners (Commissioners) and recalls the Applicant's construction panel witnesses for additional limited cross-examination.

I. Background

On August 11, 2017, the Commissioners filed a Motion to Suspend the Adjudicative Hearing and Recall the Construction Panel to Address the Viability of their Exception Request. The Applicant objected and the Commissioners filed a reply.

II. Position of the Parties

The Commissioners assert that the Applicant filed numerous "exception requests" with the Department of Transportation (DOT). The "exception requests" are requests to deviate from the requirements of the DOT Utility Accommodation Manual which governs the installation and operation of underground utility structures. The Commissioners also assert that, on July 18, 2017, the Applicant participated in a meeting with DOT representatives concerning the exception requests. According to the Commissioners, the Applicant was notified by DOT representatives during the meeting that field reviews revealed several locations identified in the

requests “had existing facilities that were incorrectly shown/described or not shown on the plans.” The Commissioners also argue that DOT representatives raised concerns about the accuracy of existing facilities and the right-of-way as presented on the Project maps. The Commissioners state that the comments made by DOT indicate that the Project plans submitted in this proceeding are inaccurate and subject to further modification. The Commissioners conclude that the Subcommittee cannot perform its statutory mandate and determine the impact of the Project on the environment, public health and safety, aesthetics, historic sites, water and air quality, and orderly development of the region by relying on the Project plans as submitted.

The Commissioners also report that the Towns of Easton and Franconia requested that DOT clarify the right-of-way within these Towns and that the Subcommittee should not continue the adjudicative hearing without receiving a response from DOT.

The Commissioners request an order: (i) suspending the adjudicative hearings until DOT confirms the accuracy of the Project’s plans from the DOT; (ii) suspending the adjudicative hearing until DOT establishes lost, uncertain or doubtful boundary lines; (iii) adjusting other deadlines accordingly; and (iv) recalling the construction panel for examination of facts related to the exception requests and the purported inaccuracies.

The Applicant argues that the Commissioners’ request is not supported by law. Specifically, the Applicant argues that the Subcommittee’s process is independent of DOT’s process and that the Subcommittee can carry out its statutory mandate and determine the impacts of the Project based on the evidence before it. On the request to re-establish the right-of-way, the Applicant argues that the Commissioners failed to include in its Motion the response sent to the Towns from DOT, and DOT’s statement in that letter that while it is questioning the accuracy of the information provided by the Applicant, that is not intended to require formal

re-establishment of the right-of-way. Finally, as to the request to recall the construction panel, the Applicant asserts that it is unnecessary because DOT will determine all issues related to the exception requests.

III. Analysis

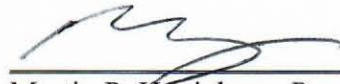
Final detailed construction plans are not required in order to conduct the adjudicative hearing and deliberations. If, after hearing, the Subcommittee considers the plans to be insufficient, it can deny the Application. The Subcommittee can also delegate authority to state agencies as part of a Certificate of Site and Facility. *See* RSA 162-H:4, III-a. RSA 162-H:16, VII, permits the Subcommittee to “condition the certificate upon the results of required federal and state agency studies whose study period exceeds the application period.” In order to properly assess whether the Subcommittee has been provided with sufficient information regarding the exception requests, it is fair to require the Applicant to recall all of the witnesses that participated on the construction panel for cross-examination on the limited issue of the progress of DOT’s review process. Further inquiry will allow the Subcommittee to consider whether the Applicant has met its burden of proof on issues related to the underground portion of the proposed transmission line.

In addition, while the Applicant claims that the plans as filed are sufficient for the Subcommittee to exercise its review, there is new evidence indicating potential inaccuracies in the underground construction plans filed with the Subcommittee. Considering that this information became available to the Intervenors following examination of the Applicant’s construction panel, it is fair and reasonable to require the Applicant to recall its construction panel witnesses to address any inconsistencies discovered as a result of a review of the exception requests.

In order to ensure the orderly conduct of the proceedings, the Applicant will be allowed to conduct direct examination of the construction panel on the limited issue of the progress of DOT's review process and the new evidence related to potential inaccuracies in the underground construction plans, followed by limited cross-examination.

On August 31, 2017, on its own motion, the Subcommittee determined that it was in the public interest to further suspend the statutory time frame to render a final decision on the Application. That portion of the Commissioner's motion to adjust other deadlines is denied as moot.

SO ORDERED this nineteenth day of September, 2017.



Martin P. Honigberg, Presiding Officer
Site Evaluation Committee