

**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**

**October 20, 2017**

**ORDER ON MOTION FOR REHEARING AND/OR CLARIFICATION OF ORDER ON  
MOTION TO COMPEL PRODUCTION OF CO-LOCATION STUDY**

This Order denies the Applicant's Motion for Rehearing and/or Clarification of Order on Motion to Compel.

**I. Background**

On June 15, 2017, Lagaspence Realty filed a Motion to Compel Production of the Co-Location Study (Study) that was commissioned by the Applicant to analyze the interference between and among the existing 115 kV line, the Northern Pass HVDC transmission line, and the Portland Natural Gas Transmission (PNGTS) high pressure gas pipeline. The Motion was granted on June 30, 2017.

On July 31, 2017, the Applicant filed a request for Clarification and/or Rehearing of the Co-Location Study Order. The Non-Abutting Property-Owners Bethlehem to Plymouth, and the Dummer, Stark and Northumberland Abutters, including Lagaspence Realty objected. On August 8, 2017, Lagaspence Realty filed an objection.

**II. Standard of Review**

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. Analysis and Findings**

The Applicant's Motion seeks confirmation and clarification that the Order was limited to production of the Study, and that no additional actions are required as the Applicant has now produced the Study. If the Order required supplemental testimony and cross-examination on the Study, the Applicant seeks rehearing, arguing that the Order overlooks the testimony already given by Messrs. Bowes and Bradstreet and mistakenly conceives obligations related to the

Applicant's burden of proof. The Applicant does not dispute the relevance of the Study, but rather, the manner in which Lagaspence Realty would have it analyzed and utilized in these proceedings. The Applicant argues that further testimony and cross-examination regarding the Study is unnecessary. The Applicant argues that production of the Study is a sufficient means for analyzing and utilizing the information in this proceeding, along with delegation authority to the Public Utilities Commission, as necessary, pursuant to RSA 162-H:4, III and III-a to monitor the Applicant's construction activities.

Lagaspence Realty argues that while the Study is useful in identifying the dangers of co-location and what must be done to properly assess those dangers, the assessment, in and of itself, is insufficient to permit the Subcommittee to make the required findings regarding the impact of the Project on health and safety. Lagaspence Realty notes that the Study expressly states that a more detailed analysis will be required and that the testimony presented regarding co-location is insufficient to address the questions remaining after production of the Study.

Through the Motion to Compel, Lagaspence Realty argued that the Co-Location Study must be produced so it can be presented with testimony of its authors and subject to cross-examination if necessary. The Presiding Officer's Co-Location Study Order specifically stated that the requested information was relevant and reasonably calculated to lead to the discovery of admissible evidence in this docket. The Presiding Officer further indicated that "Lagaspence Realty's request that the Applicant produce the study by a date certain so it may be analyzed and utilized in these proceedings is reasonable." Co-Location Study Order, p. 4. The Presiding Officer acknowledged there may be a necessity for further testimony and/or cross-examination regarding the Co-Location Study.

Further, the Applicant has failed to state good cause for rehearing. The Applicant has identified no issue overlooked or mistakenly conceived in the original decision. The Applicant has also failed to demonstrate that the Co-Location Study Order resulted from any error of fact, reasoning, or law.

The Applicant's requests for clarification that the Co-Location Study Order is limited to production of the Study, and for rehearing, are denied.

SO ORDERED this twentieth day of October, 2017.



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Martin P. Honigberg, Presiding Officer  
Site Evaluation Committee