

**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**

June 8, 2018

**ORDER ON MOTION FOR REHEARING OF
MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT**

This Order denies a motion filed by the Applicant for Rehearing of the Order Denying Applicant's Motion for Protective Order and Confidential Treatment.

I. Background

On April 26, 2017, the Applicant filed a Motion for Protective Order and Confidential Treatment seeking to protect information filed in this docket and contained in the report titled "An Evaluation of All UG Alternatives for the Northern Pass Transmission Project".

The Presiding Officer denied the motion and the Applicant filed a Motion for Rehearing. The Society for the Protection of New Hampshire Forests (Forest Society) objected to the Applicant's motion.

II. Standard

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.

See N.H. Code Admin. Rules Site 202.29.

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. Positions of the Parties

The Applicant argues that the Order is inconsistent with prior orders issued in this docket and amounts to an error of reasoning. The Applicant asserts that the Order undervalues the significance of the competitive and proprietary interests at stake and, therefore, misapplies the three-step analysis required to determine whether information should be exempt from public disclosure pursuant to the Right-to-Know Law, RSA 91-A:5, IV.

The Applicant states that it sought a protective order and confidential treatment of confidential business information, including a pricing summary and highly detailed itemization

of Project cost components related to the cost of the underground segments of the Project and that it has a proprietary interest in protecting this confidential information because the Applicant, and by association its contractors, are competing in the highly competitive Massachusetts RFP. The Applicant claims that disclosing the information will allow its competitors to secure a competitive advantage in the Massachusetts RFP and future competitive solicitations. The Applicant also argues that detailed cost information of the sort that it seeks to protect is of no use to the public outside of this proceeding and, therefore, the public interest in disclosing such confidential information is limited and does not inform the public of the activities and conduct of the government. Finally, the Applicant argues that the Order denying the motion is inconsistent with a prior order granting a protective order and confidential treatment to information related to the Tri-State Clean Energy RFP process and that the information sought to be protected is similar in nature to the information protected with respect to the Tri-State Clean Energy RFP.

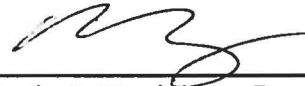
The Forest Society argues that the Presiding Officer correctly concluded that the Applicant's purported privacy interest is too attenuated to warrant exclusion from disclosure per RSA 91-A:5. The Forest Society asserts that the Applicant has failed to meet the standard for rehearing, and the Presiding Officer should deny the Motion for Rehearing because: (1) the record in this matter is closed; and (2) in its Motion for Rehearing, the Applicant does nothing more than repeat arguments already made in the Motion. The Forest Society argues that the Applicant identified no mistake of fact or error of law warranting rehearing. The Forest Society asserts that the information sought to be protected is clearly distinguishable from the information protected regarding the Tri-State Clean Energy RFP and therefore, the Presiding Officer was not bound by the prior order and made no error in denying the Motion. The Forest Society claims that the Applicant's argument that failing to protect the information will impinge on its ability to

compete in the Massachusetts RFP is moot because the Applicant was awarded the Massachusetts RFP. Finally, the Forest Society submits that the Applicant has still failed to explain how a pricing summary is proprietary business information.

IV. Analysis

The Applicant failed to identify any error of fact, reasoning, or law warranting rehearing. The Applicant's Motion for Rehearing simply rehashes arguments made in the Motion. While the Applicant asserts that the Presiding Officer undervalued the significance of the competitive and proprietary interests at stake, the Applicant fails to explain what confidential business interests or competitively sensitive information are at stake or how disclosure would invade the Applicant's privacy interest. The Motion for Rehearing is denied.

SO ORDERED, this eighth day of June, 2018.



Martin P. Honigberg, Presiding Officer
Site Evaluation Committee