

**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**

**SUPPLEMENTAL PREFILED DIRECT TESTIMONY OF  
EDWARD L. ROBERGE, P.E., CITY ENGINEER**

**April 17, 2017**

**Background and Qualifications**

**Q. Please state your name and work address.**

A. My name is Edward L. Roberge. My work address is 41 Green Street, Concord, New Hampshire 03301.

**Q. Please describe your employment at the City of Concord?**

A. I am the City Engineer. I have held this position for 11 years. My responsibilities are to manage the Engineering Services Division of the Community Development Department, including private development projects, capital projects, and traffic and transportation programs.

**Q. What is your professional background and experience?**

A. I received a Bachelor of Science Degree in Civil Engineering from Northeastern University in 1995. I was licensed as a Professional Engineer in the State of New Hampshire in 1999. I have over thirty (30) years of professional experience primary focused within municipal public works and engineering.

**Purpose of Supplemental Testimony**

**Q. What is the purpose of this supplemental pre-filed direct testimony?**

A. The primary purpose of this supplemental pre-filed testimony is to provide clarification about my earlier testimony to the extent that such information was requested in data requests and/or raised during technical sessions. The supplemental pre-filed testimony also provides information about permits and ordinance requirements in the City of Concord that are not already addressed in my previous testimony.

1 **Regulation of City-Maintained Highways**

2 **Q. During your technical session, you were asked about specific locations in**  
3 **which there are public highway crossings proposed by Northern Pass. Could you identify**  
4 **each of the crossings in Concord that involve locally maintained roads?**

5 A. The specific road crossings outlined during my technical session included Hoit  
6 Road, Sanborn Road, Shaker Road, Oak Hill Road, Appleton Street, Curtisville Road,  
7 Portsmouth Street, Old Loudon Road, Loudon Road, Pembroke Road, Regional Drive, Chenell  
8 Drive, and Antrim Avenue.

9 **Q. During your technical session, you were also asked about the requirements**  
10 **for public crossings in Concord. Could you provide this information to the Site Evaluation**  
11 **Committee?**

12 A. In the City of Concord, the City's Poles and Wires Committee reviews and grants  
13 license agreements for utility poles and overhead and underground wire utilities to use and  
14 occupy the City's right-of-way. The license process allows for proper evaluation for safe  
15 installation and use of best practices. The license process is also used as the method for the City  
16 to keep track of poles and wires for taxation purposes under RSA 72:23, I(b), which is the statute  
17 that requires municipalities to tax utilities for the use and occupancy of the public right-of-way.  
18 When the City of Concord's Department of Real Estate Assessments receives information  
19 through a license agreement that an entity is using and occupying the City's right-of-way, the  
20 Assessing Office then conducts an inquiry to assess the appropriate tax. The license includes  
21 language that specifically requires the utility to pay taxes under RSA 72:23, I(b). The license

1 also includes language that requires utilities to provide annual reports of progress, which is used  
2 to determine the status of construction as of April 1st to ensure that all utilities are added to the  
3 City's inventory for taxation. During the review process, depending on the nature of the project  
4 and the infrastructure proposed, the Poles and Wires Committee works with the utility to identify  
5 all proposed access roads (temporary and permanent) and ensure appropriate use of the public  
6 right-of-way.

7 It should be noted that the issuance of a poles and wires permit or license is  
8 predominantly a ministerial process that is regularly conducted in municipalities, and it is not  
9 intended to be a cumbersome process for utilities.

10 **Q. In your pre-filed testimony, you discuss concerns that the access roads in the**  
11 **plans submitted for the proposed Northern Pass Project comply with the City of Concord's**  
12 **driveway and access requirements. You were asked about these concerns during your**  
13 **technical session. Please provide clarification about the specific concerns that the City of**  
14 **Concord's Engineering Division has identified to date?**

15 A. As I explained, Engineering staff reviewed earlier plans believed to be wetland  
16 impact plans with limited access roads and work area detail. The following table generally  
17 summarizes areas of concern and typical review comments on final design plans when looking at  
18 access roads and work areas on our existing roadway network. The information in the table is  
19 based on a plan set entitled "NHDES Wetlands & US Army Corps of Engineers, section 404/10  
20 Permit Application Plans, The Northern Pass Proposed Route," dated 10/8/2015, and stamped  
21 and signed by Adele F. Fiorillo, State of NH Certified Wetland Scientist on 8/7/15:

LOCATION	M/B/L	MAP	COMMENTS
41 Hoit Road	122-5-10	587	New access driveway too close to the intersection of Hoit Road and Mountain Road. Second access driveway off of Mountain Road. Drive consolidation should be considered. Large area of clearing along Mountain Road for construction pad is not depicted as clearing. This will remove vegetative buffer between the house and Mountain Road and could create unintended access. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
56 Sanborn Road	122-2-26	589	New access driveway off of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
61 Sanborn Road	122-3-21	589	New house and residential driveway not shown on plan. House and residential driveway should be shown to properly evaluate location of new access driveway off of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
Snow Pond Road	121-3-14	595	New access driveway off of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
183 Shaker Road and unaddressed parcel across the street	121-3-12 121-3-17	596	Three (3) new access driveways off west side and two (2) off east side of public road. Drive consolidation should be considered. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.

87 Oak Hill Road and unaddressed parcel across the street	118F-1-1 118F-2-17	598 599	Two (2) new access driveways off west side and one (1) off east side of public road. One of the access drives on the west side is shared with private residential driveway. Drive consolidation should be considered. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
53 Appleton St	118-2-5	601	New access driveway off of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
74 Appleton Street 80 Appleton Street	118-1-43 118-1-44	601	Two (2) new access driveways off of public road. Drive consolidation should be considered. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
Curtisville Road	118-1-2 118-3-1	603	Two (2) new access driveways off of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
259 Portsmouth Street 263 Portsmouth Street	113-2-19 113-2-27	606 607	Two (2) new access driveways off north side and one (1) off south side of public road. Drive consolidation should be considered. One of the drives on north side is proposed on the existing City water tank access road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
241 Old Loudon Road	111C-1-13	608	New access driveway off of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.

146 Pembroke Road 149 Pembroke Road	111G-1-5 111B-1-1 111B-1-2	610	Two (2) new access driveways off south side and one (1) off north side of public road. Drive consolidation should be considered. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
77 Regional Drive 24 Industrial Park Drive	111G-1-26 111G-1-23	612	Two (2) new access driveways off of public road adjacent to large commercial sites. The existing access to the 77 Regional Drive site from Industrial Park Drive could eliminate the need for the proposed Regional Drive access. Other access points through the 24 Industrial Park Drive site could also eliminate the need for the proposed Regional Drive access. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
28 Industrial Park Drive Chenell Drive	111G-1-22 111G-1-66	613	Two (2) new access driveways off of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.
25 Henniker Street 51 Antrim Avenue	111G-1-64 111G-1-63	614	Two (2) new access driveways off of end of public road. Plans need to clearly define permanent versus temporary access drives. If permanent, details for access controls (such as barriers or fencing/gates to be implemented) should be provided for review.

- 1           **Q.     Why is it important for the concerns that you raise to be addressed?**
- 2           A.     To ensure safety on our public ways and adherence to Ordinances and policies.

1 **Other Permits and Regulations**

2 **Q. In your pre-filed testimony, you discussed some of the Engineering Services**  
3 **Division permit requirements. Could you provide information to the Site Evaluation**  
4 **Committee about other permits and local requirements regulated by the Engineering**  
5 **Services Division and/or other divisions in the City of Concord that would be required by**  
6 **proposed Northern Pass plan?**

7 A. The City has a number of ordinances and regulations that must be followed for all  
8 construction projects in Concord. While this may not be an exhaustive list, the Northern Pass  
9 Project as proposed would likely require driveway permits, encumbrance permits, and perhaps  
10 blasting permits. Blasting permits are coordinated by the Concord Fire Department while  
11 driveway and encumbrance permits are coordinated by the Engineering Services Division. There  
12 are also noise ordinances in the City of Concord that must be followed, as well as seasonal  
13 roadway weight restrictions. Depending on the other activities, there may also be other  
14 ordinances and local regulations that must be followed.

15 **Q. Please provide more specific information about the requirements for a**  
16 **driveway and an encumbrance permit.**

17 A. Concord has a process to permit driveway access to the public right-of-way.  
18 Drive access includes full private and City accepted streets, private site access drives, and  
19 temporary access drives. A driveway permit is valid for up to thirty days and includes a fee in  
20 the current amount of \$75 per driveway location. A permit is issued within three days of  
21 submission of the application. As part of the permitting process, the Engineering Services



1 Division will review the proposed location of the access driveway, evaluate safe stopping sight  
2 distance, signage, and drainage characteristics, as necessary.

3 Concord also has a process to permit the temporary use or occupation of public highway  
4 rights-of-way that will have the effect of closing, narrowing, or obstructing a city street. The  
5 types of encumbrances contemplated by the ordinance include, but are not limited to dumpsters,  
6 motorized lifts, staging, cranes, and construction equipment. An encumbrance permit is valid for  
7 up to thirty days and includes a fee in the current amount of \$75, and multiple street locations  
8 can be included in the same permit application. A permit is issued within three days of  
9 submission of the application. As part of the permitting process, the Engineering services  
10 Division will review the proposed location of the encumbrance to determine whether a police  
11 detail is necessary.

12 **Q. Please describe some of the relevant noise ordinances in Concord.**

13 A. The City of Concord also has specific requirements relative to noise. Article 13-6  
14 of the City of Concord's Ordinance governs noise. With respect to construction noise that is  
15 clearly audible at a dwelling, it is prohibited except between 7:00 a.m. and 7:00 p.m. on  
16 weekdays; between 9:00 a.m. and 7:00 p.m. on Saturdays; and between 9:00 a.m. and 7:00 p.m.  
17 on Sundays and certain holidays. These requirements must be followed except in the case of  
18 certain emergencies or the issuance of a special permit issued by the Code Administrator.

19 **Q. Please also explain the season weight restrictions imposed by Concord.**

20 A. The City also places seasonal restrictions on the use of its streets by all vehicles  
21 with a gross weight of 18,000 pounds or more. RSA 231:191; Code of Ordinances, 17-6-10.

1 This restriction applies to all trucks using streets which have seasonal weight limitations,  
2 regardless of whether the truck is servicing a location on the street. An annual list of streets with  
3 seasonal weight restrictions is issued by the City. A truck which exceeds the seasonal weight  
4 restriction is permitted to use the restricted streets only if it receives permission due to “practical  
5 difficulty or unnecessary hardship” because a business is served by the street. RSA 231:191, III  
6 and V. A truck is not permitted to make deliveries to a destination on a street with seasonal  
7 weight restrictions unless prior approval is first obtained from the City. The City of Concord’s  
8 General Services Department generally imposes conditions of its approval such as limiting the  
9 amount of truck activity, the gross weight of the vehicles, and/or the times of day that the streets  
10 can be used for deliveries. Depending on the nature and extent of the proposed truck activity, the  
11 City will also require a bond and/or restoration of the road.

12 **Q. Are there other requirements in the City of Concord for which the Northern**  
13 **Pass Project must comply or address?**

14 A. There may be other requirements. This could not be determined until a final plan  
15 is provided. I would note that it is the responsibility of the contractor to ensure compliance with  
16 the City of Concord’s regulations.

1           **Q.     Why wasn't the information about permits and local regulations provided**  
2 **earlier?**

3           A.     The City of Concord was notified in February 2017 that Northern Pass was not  
4 intending to receive these permits and/or follow these regulations. A copy of the correspondence  
5 is attached as Exhibit C.

6 **Burial of Lines**

7           **Q.     During your technical session and in a data request, you were asked to**  
8 **identify all of the places and costs where Concord has invested money since 2000, including**  
9 **Horseshoe Pond, in order to underground electric lines. Please provide this clarifying**  
10 **information to the Site Evaluation Committee.**

11          A.     On April 11, 2016, City Council approved Resolution 8912 authorizing the  
12 expenditures of \$2,000,000 for the relocation of aerial utilities along portions of South Main  
13 Street in Downtown Concord. Utilities included electric, telephone, telecommunication, and  
14 municipal fire alarm. Electric systems relocated were distribution (under 34.5 kV) systems.

15          On March 11, 2013, City Council approved Resolution 8647 authorizing the expenditures  
16 of \$1,735,000 for the relocation of aerial utilities along portions of Village Street in Penacook  
17 Village. Utilities included electric, telephone, telecommunication, and municipal fire alarm.  
18 Electric systems relocated were distribution (under 34.5 kV) systems.

19          On June 19, 2000, City Council approved Resolution 7064 authorizing the expenditures  
20 of \$670,000 for the relocation of aerial utilities along portions of South Main Street. Utilities

1 included electric, telephone, telecommunication, and municipal fire alarm. Electric systems  
2 relocated were distribution (under 34.5 kV) systems.

3 **Q. What was the purpose of burying those electric lines?**

4 A. In each of the cases stated above, economic development and aesthetics was the  
5 primary cause to complete those projects. Winter storm resiliency is also considered.

6 **Q. Does this end your testimony?**

7 A. Yes.

# EXHIBIT C

## Pacik, Danielle

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**From:** Getz, Thomas <Thomas.Getz@MCLANE.com>  
**Sent:** Wednesday, February 8, 2017 2:28 PM  
**To:** Pacik, Danielle  
**Subject:** RE: Municipal Permits - Northern Pass  
**Attachments:** Muni Stipulation--Template.DOCX

Danielle,

Following up on our conversation yesterday, attached please find a template for an agreement with the City. As I said, we believe it is clear that the SEC preempts local regulation over the siting of electric transmission lines, but we are nevertheless prepared to work out an agreement on a variety of issues that could be filed with the SEC and proposed as conditions to the Certificate.

Thanks

Tom

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**From:** Pacik, Danielle [mailto:DPacik@ConcordNH.gov]  
**Sent:** Friday, February 03, 2017 1:08 PM  
**To:** Getz, Thomas  
**Cc:** C. Christine Fillmore Esq. (cfillmore@townandcitylaw.com); Steven Whitley Esq. (steven@mitchellmunigroup.com)  
**Subject:** Municipal Permits - Northern Pass

Hi Tom –

I understand from discussions that Northern Pass may not be intending to get local permits from municipalities. Before we filed a motion seeking an order from the SEC confirming that Northern Pass is required to obtain local permits, I wanted to contact you to confirm Northern Pass's position on this matter.

While every municipality varies, the types of permits that might be needed in Concord include encumbrance permits, blasting permits, street excavation permits, driveway permits (for permanent access roads) and utility connection permits (if connecting to our storm drain).

I would note that when I asked Kenneth Bowes during the technical session on September 14, 2017 whether the contractor for Northern Pass would be obtaining local permits, his response was the contractor would be required to go to each municipality and obtain street loading, blasting and other permits. The prefiled testimony further indicates that local permits would be obtained. For example:

- John Kayser's prefiled testimony at page 10 states as follows: **Q. Please describe the blasting procedures associated with construction.** A. It is anticipated that blasting will be required for overhead, underground and substation construction of the Project. The Project specifications will require that only experienced, licensed blasting contractors will be allowed to perform work on the Project and will comply with all applicable federal, state and municipal regulations, the Certificate, permits, Project engineering specifications and OSHA requirements.
- John Kayer's prefiled testimony at pages 15-16 states as follows: **Q. Please describe the construction laydown areas and temporary storage areas in detail.** A. . . . The development, use, and restoration of any staging sites will conform to conditions of the Project's permits and any other applicable federal, state, and local requirements.
- John Kayer's prefiled testimony at pages 33-34 states as follows: **Q. Please explain how traffic control will be handled during construction.** A. . . . In addition, prior to construction, driveway access permits will be applied for as needed based on the means and methods adopted by the construction contractor.

Based on the foregoing, I am a bit confused why Northern Pass may now be asserting that it does not need to obtain local permits. Please let us know whether Northern Pass contractors will be obtaining all of the applicable municipal permits.

I also wanted to find out whether Northern Pass is willing to reconsider its position on obtaining a poles and wires license under RSA 231:161, which is an important permit for municipalities. This license is needed to ensure that the municipalities such as the City of Concord can keep track of poles and wires for taxation purposes under RSA 72:23, I(b) as we are required to tax utilities for the use and occupancy of the public right of way under that statute (this is different than the *ad valorem* tax assessed on the structures). The license also includes language that specifically requires the utility to pay taxes. The license also require the utility to provide annual reports of progress, and to ensure that all road load limits are followed. I am attaching a sample license that PSNH has received from Concord in the past. As discussed by Ed Roberge, our City Engineer, the poles and wires committee process is also used to ensure that any temporary access routes are safe and comply with Concord's ordinances. We do not think that the process for obtaining a the poles and wires license process is cumbersome, and to the extent that the SEC approves the application for a site facility, we also recognize that a municipality could not withhold a permit merely because it disagrees with the need of the project. However, similar to other local permits, it is necessary that the license be obtained, and we do not see anything in the SEC rules that would preempt this process.

Please let me know how you intend to proceed on the above referenced permits and licenses. We intend to file a motion next week in the event that Northern Pass does not provide confirmation that it will be obtaining municipal permits.

Danielle L. Pacik  
Deputy City Solicitor  
City of Concord, Legal Department  
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Concord, NH 03301  
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