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STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

June 23, 2016 - 8:45 p.m.
Plymouth High School
86 Old Ward Bridge Road
Plymouth, New Hampshire

NHPUC 27JUL'16PM1:55

IN RE: SEC DOCKET NO. 2015-06
JOINT APPLICATION OF NORTHERN
PASS LLC AND PUBLIC SERVICE
COMPANY OF NEW HAMPSHIRE d/b/a
EVERSOURCE ENERGY FOR A
CERTIFICATE OF SITE AND FACILITY
(Hearing on Pending Motions)

PRESENT FOR SUBCOMMITTEE	SITE EVALUATION COMMITTEE
Chairman Martin Honigberg (Presiding Officer)	Public Utilities Comm.
Cmsr. Kathryn M. Bailey Christopher Way, Designee	Public Utilities Comm. DRED
William Oldenburg, Designee	Dept. of Transportation
Patricia Weathersby	Public Member
Rachel Whitaker	Public Member

ALSO: Michael J. Iacopino, Esq. - Counsel for SEC
Pamela G. Monroe - SEC Administrator

COURT REPORTER: Susan J. Robidas, LCR No. 44

1 NOTED AS PRESENT:

2 Counsel for the Applicant: Barry Needleman, Esq.
3 (McLane Middleton)

4 Counsel for the Public: Peter Roth, Esq.
5 (Sr. Asst. Atty. Gen.)

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P R O C E E D I N G S

1
2 CHAIRMAN HONIGBERG: This is a
3 meeting of the New Hampshire Site Evaluation
4 Committee and the Subcommittee considering the
5 petition by Northern Pass Transmisison, LLC,
6 and Public Service Company of New Hampshire,
7 which does business as Eversource Energy, for a
8 Certificate of Site and Facility to construct a
9 192-mile transmission line. The lines are
10 proposed to have a capacity rating of up to
11 1090 megawatts and to run through New Hampshire
12 from the Canadian border into Pittsburg to
13 Deerfield.

14 The subject of this meeting is a
15 number of motions for rehearing or
16 reconsideration regarding an order issued by
17 the Subcommittee of the SEC regarding
18 interventions.

19 Mr. Iacopino, I will ask you to
20 identify the, I think it's three motions that
21 we have to consider, and give us any other
22 information you feel is appropriate about them.

23 MR. IACOPINO: Mr. Chairman, the
24 three motions that you've referenced, the first

1 is the motion of Mr. Mullen and Mr. Powell,
2 entitled the "Realtors Opposed To Northern
3 Pass." That is a motion for rehearing from the
4 denial of their petition to intervene, which
5 was denied by the Chairman originally and then
6 denied by the full Committee.

7 The second motion that we
8 received is the motion of McKenna's Purchase,
9 which is a motion for rehearing regarding their
10 grouping with other intervenors. And I forget
11 which group it was. The Concord Group.

12 And finally, the City of Concord
13 has also filed a motion for rehearing. Their
14 motion for rehearing is regarding their
15 grouping with the Municipal Group as well.

16 So we have one that's a
17 rehearing of a denial of intervention, and two
18 motions that seek relief from the groupings of
19 intervenors.

20 CHAIRMAN HONIGBERG: All right. Does
21 anyone on the Subcommittee have any thoughts
22 they want to share with the group, make a
23 motion or anything else? Commissioner Bailey.

24 MS. BAILEY: Mr. Iacopino -- Attorney

1 Iacopino, could you tell us if the motion to
2 reconsider by Mr. Powell and Mr. Mullen
3 identifies anything that the Committee
4 overlooked or that they haven't already argued?

5 MR. IACOPINO: No, I can't do that.
6 That's a decision that you as a committee have
7 to make. The standard on a motion for
8 rehearing is that the motions for rehearing are
9 not designed to merely restate or repeat
10 arguments. A motion for rehearing, the purpose
11 of it is to raise matters that have been
12 overlooked or mistakenly conceived in the
13 original decision. And that is something
14 that's purely within the bailiwick of the
15 Commission. I cannot make that determination
16 for you. You would have to take your
17 recollection of the record and determine
18 whether or not you believe that there was
19 anything new or anything that was overlooked or
20 mistakenly conceived in the decisions that were
21 issued by the Committee -- Subcommittee.

22 CHAIRMAN HONIGBERG: Commissioner
23 Bailey.

24 CMSR. BAILEY: Okay. I don't think

1 that there is anything that's been identified
2 that we overlooked or mistakenly conceived. I
3 think that our order was clear, that their
4 interests -- that they don't really have
5 interests or rights at stake in this case, but
6 that they might be appropriate witnesses for
7 some other parties. And so I would, based on
8 that, move to deny the motion for
9 reconsideration.

10 CHAIRMAN HONIGBERG: Is there a
11 second? She's making a motion on the Mullen
12 motion. Yes, it's the Mullen motion.

13 MR. WAY: I'll second that.

14 CHAIRMAN HONIGBERG: Mr. Way seconds.
15 Is there further discussion of
16 the motion by Mr. Mullen and -- who's the other
17 one?

18 MR. IACOPINO: Powell.

19 CHAIRMAN HONIGBERG: -- and Mr.
20 Powell?

21 (No verbal response)

22 CHAIRMAN HONIGBERG: Are you ready
23 for the vote?

24 All in favor of the motion by

1 Commissioner Bailey to deny the motion for
2 rehearing will say "Aye." If you are instead
3 opposed to the motion and would grant a
4 rehearing, you will say "No." All in favor
5 please say "Aye."

6 [Multiple members indicating "Aye".]

7 CHAIRMAN HONIGBERG: Are there any
8 opposed?

9 (No verbal response)

10 CHAIRMAN HONIGBERG: The ayes have
11 it. The motion carries, and the motion by Mr.
12 Mullen is denied.

13 The next one is the motion by
14 McKenna's Purchase, which is part of the
15 Concord Group. Does anyone have any thoughts
16 or opinions on the McKenna's Purchase motion?

17 (Members reviewing documents)

18 CHAIRMAN HONIGBERG: Mr. Way.

19 MR. WAY: I think in the same vein as
20 Commissioner Bailey said a few moments ago
21 about the rehearing of the previous request,
22 that I think we made the appropriate decision
23 the last go-around. I'm not seeing new
24 information coming to light, and I would make a

1 motion to deny.

2 CHAIRMAN HONIGBERG: Is there a
3 second?

4 CMSR. BAILEY: I'll second.

5 CHAIRMAN HONIGBERG: Commissioner
6 Bailey seconds. Is there any further
7 discussion of the McKenna's Purchase motion?

8 (No verbal response)

9 CHAIRMAN HONIGBERG: Seeing none, are
10 you ready for the question?

11 All right. All those in favor
12 of the motion to deny McKenna's Purchase for
13 rehearing will vote "aye." Those opposed and
14 would instead grant the motion for rehearing
15 will say "No."

16 All in favor please say "Aye."

17 [Multiple members indicating "aye".]

18 CHAIRMAN HONIGBERG: Are there
19 opposed?

20 (No verbal response)

21 CHAIRMAN HONIGBERG: The ayes have
22 it. The motion for hearing by McKenna's
23 Purchase is denied.

24 The third is by the City of

1 Concord. Commissioner Bailey.

2 CMSR. BAILEY: I'll start the
3 discussion. In their motion, they claim that
4 Concord won't be able to conduct
5 cross-examination to address issues of specific
6 concern to Concord that are not addressed by
7 the group's spokesperson or by any other
8 party's cross-examination. And I don't recall
9 that that was -- that wasn't my understanding.
10 I thought that if their group didn't represent
11 a specific interest or they weren't able to
12 work it out with the group, that they would be
13 allowed to file a motion, and/or they would
14 have time for cross-examination on their issue,
15 and they would do the cross-examination on
16 their issue, even if they weren't the group
17 spokesperson. Is my understanding of that
18 incorrect?

19 CHAIRMAN HONIGBERG: That's my
20 understanding as well. If there's a member of
21 a group that is not being represented by the
22 group, or who has matters that they need to
23 bring that are separate from what the group is
24 doing, they need to bring that to the

1 Subcommittee's attention, either something in
2 writing, or if it comes up at a hearing or
3 during the adjudicative hearing on the merits,
4 they'll have to be dealt with then. But
5 that's -- you are correct.

6 MS. WEATHERSBY: Mr. Chair, that
7 would be the same regarding the technical
8 sessions; correct? They can have a chance to
9 ask questions at a technical session if they
10 feel as though their spokesperson is not
11 adequately representing their interests; is
12 that correct?

13 CHAIRMAN HONIGBERG: I believe that
14 is correct.

15 Any further discussion?

16 (No verbal response)

17 MR. OLDENBURG: Mr. Chairman.

18 CHAIRMAN HONIGBERG: Mr. Oldenburg.

19 MR. OLDENBURG: I need clarification
20 on the first point. So, if Town A -- I don't
21 know -- Group A or something says they have an
22 issue with the environment, and their group
23 takes a certain tact, one of the towns within
24 that group could also question or cross-examine

1 or testify on the environment? I mean, is that
2 what we're saying?

3 CHAIRMAN HONIGBERG: There's a legal
4 question buried in here for Mr. Iacopino
5 regarding the --

6 MR. OLDENBURG: I guess my point is,
7 just because two towns in a group disagree on
8 who's going to cross-examine someone, they both
9 get to cross-examine?

10 CHAIRMAN HONIGBERG: No, it's not
11 who. It's not who. It's on issues --

12 MR. OLDENBURG: I mean if they have a
13 different approach to an issue.

14 CHAIRMAN HONIGBERG: No, they have to
15 have a different position on an issue. If two
16 parties are opposed, they have to have
17 different positions in order for it to make
18 sense. If they're taking the same position but
19 differ on strategy, that's something they need
20 to work out within their group, in my view.

21 Mr. Iacopino, do you have any
22 thoughts on this, in terms of what the legal
23 framework in which we're working, how that
24 dictates what we must do or allow parties to

1 do?

2 MR. IACOPINO: Okay. Because they
3 were grouped as intervenors, the statute on
4 intervention, R.S.A. 541, I believe it's
5 Section 33, as well as our rules, say that if a
6 grouping substantially interferes with the
7 interests of the intervenor, it shouldn't be
8 granted. The way that we -- they shouldn't be
9 grouped. The way that this Committee has
10 assessed the interests of the intervenors, we
11 found that their -- you found that their
12 interests are not inconsistent and grouped them
13 accordingly. If it turns out that something
14 inconsistent does occur within a group, you've
15 also told the intervenor groups that they
16 should bring that to the attention of the
17 Committee and seek the appropriate relief. It
18 could be that they have different interests
19 with respect to an environmental issue. Maybe
20 they might be on opposite sides, although I
21 don't think that's the most likely issue. I
22 think more likely where there might be some
23 differences, they may not be inconsistent, but
24 they may have different interests in that one

1 town. For instance, just by way of example:
2 They might have a particular wetland that they
3 are particularly concerned about; whereas, the
4 other two or three towns in that group may not
5 have concerns about that and don't want to, for
6 instance, send limited data requests on it.
7 The town with the wetlands might move the
8 Subcommittee to allow them to do that.

9 Same thing at a hearing. If
10 they -- use the same example. If the person
11 who is cross-examining on behalf of that
12 particular intervenor group chooses not to ask
13 any questions about that particular wetland,
14 and the town where the wetland exists, that's
15 part of their interest, they should make that
16 request of the presiding officer. And assuming
17 that the presiding officer and Subcommittee
18 find that, to protect their interests, it's
19 necessary for them to do that, they would be
20 permitted to do it. I don't know that you'll
21 have any situations where the groupings are
22 people that are diametrically opposed on any
23 particular issue. It's probably more like the
24 wetlands example that I provided to you. But

1 that's the way that -- those are the rules and
2 the law of the case in this particular docket
3 right now, given the orders that the
4 Subcommittee has issued. And they are
5 consistent with R.S.A. 541 and with our rules.

6 MR. OLDENBURG: Thank you.

7 CHAIRMAN HONIGBERG: Further
8 questions or discussion on the Concord motion?
9 Commissioner Bailey.

10 CMSR. BAILEY: I understand that this
11 proceeding is extremely difficult for all
12 parties. And I don't really see how this is
13 more difficult for Concord than it is for all
14 the other parties, and even, frankly, for us.
15 This is not an easy process to go through, and
16 we all have to figure out a way to get there.
17 I think if we granted this intervention -- and
18 I don't think that Concord has raised anything
19 that we've overlooked or mistakenly conceived.
20 You know, they point out that the legislature
21 intended for municipalities to have an
22 opportunity to provide their views relative to
23 the site and facility. Well, we're giving them
24 that opportunity. It's not how they would

1 prefer to do it. It's not how they get to do
2 it when the Project is located only in their
3 town. But we can't -- I don't think that we
4 can grant them separate status, because then
5 everybody else will make the same request and
6 the process will get even more unwieldy than it
7 is. And we have a statutory deadline to get it
8 done by a certain date. So, that's my opinion.

9 CHAIRMAN HONIGBERG: Other thoughts
10 or comments? Would someone like to make a
11 motion? Don't all rush at once. Commissioner
12 Bailey.

13 CMSR. BAILEY: I'll move, based on
14 what I just said, to deny Concord's motion.

15 CHAIRMAN HONIGBERG: Is there a
16 second?

17 MR. WAY: I'll second that.

18 CHAIRMAN HONIGBERG: Mr. Way seconds.
19 Is there any further discussion?

20 [No verbal response]

21 CHAIRMAN HONIGBERG: Are you ready
22 for the question?

23 All right. All those in favor
24 of Commissioner Bailey's motion to deny

1 Concord's motion for rehearing regarding the
2 groupings will vote aye. Those who are opposed
3 to the motion, would instead like to grant
4 Concord's motion, will vote no. All in favor
5 please say "Aye."

6 [Multiple members indicating "aye".]

7 CHAIRMAN HONIGBERG: Are there any
8 opposed?

9 (No verbal response)

10 CHAIRMAN HONIGBERG: The ayes have
11 it, and Concord's motion is denied.

12 Mr. Iacopino, are there any
13 other motions that we need to deal with this
14 evening?

15 MR. IACOPINO: There were none others
16 that were noticed, Mr. Chairman. And I'm
17 unaware of any other motion that is outside of
18 the objection period and ripe for consideration
19 by the Subcommittee. There are a couple of
20 motions that are pending that are procedural
21 for the presiding officer, but those are
22 motions that can be dealt with in written form.

23 CHAIRMAN HONIGBERG: Ms. Monroe, is
24 there anything else we need to do this evening

1 before we adjourn?

2 MS. MONROE: No.

3 CHAIRMAN HONIGBERG: Would someone
4 make a motion to adjourn?

5 CMSR. BAILEY: I'll make a motion to
6 adjourn.

7 CHAIRMAN HONIGBERG: Commissioner
8 Bailey moves we acknowledge.

9 MR. WAY: Second.

10 CHAIRMAN HONIGBERG: Mr. Way seconds.
11 All in favor say "Aye."

12 [Multiple members indicating "aye".]

13 CHAIRMAN HONIGBERG: Are there any
14 opposed?

15 (No verbal response)

16 CHAIRMAN HONIGBERG: We are
17 adjourned.

18

19 (Whereupon the hearing was adjourned at
20 9:02 p.m.)

21

22

23

24

**HEARING ON PENDING MOTIONS - June 23, 2016
SEC 2015-06 NORTHERN PASS, LLC AND PUBLIC SERVICE CO. OF NH**

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**HEARING ON PENDING MOTIONS - June 23, 2016
SEC 2015-06 NORTHERN PASS, LLC AND PUBLIC SERVICE CO. OF NH**

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SEC 2015-06 NORTHERN PASS, LLC AND PUBLIC SERVICE CO. OF NH**

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