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

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        Public Utilities Comm.
(Presiding Officer)
Christopher Way, Designee 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
NOTED AS PRESENT:

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

Counsel for the Public: Peter Roth, Esq.  
(Sr. Asst. Atty. Gen.)
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SEC 2015-06 [HEARING ON MOTIONS] {06-23-16}
PROCEEDINGS

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

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

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

MR. IACOPINO: Mr. Chairman, the
three motions that you've referenced, the first
is the motion of Mr. Mullen and Mr. Powell, entitled the "Realtors Opposed To Northern Pass." That is a motion for rehearing from the denial of their petition to intervene, which was denied by the Chairman originally and then denied by the full Committee.

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

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

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

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

MS. BAILEY: Mr. Iacopino — Attorney
Iacopino, could you tell us if the motion to reconsider by Mr. Powell and Mr. Mullen identifies anything that the Committee overlooked or that they haven't already argued?

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

CHAIRMAN HONIGBERG: Commissioner Bailey.

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

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

MR. WAY: I'll second that.

CHAIRMAN HONIGBERG: Mr. Way seconds.

Is there further discussion of
the motion by Mr. Mullen and -- who's the other
one?

MR. IACOPINO: Powell.

CHAIRMAN HONIGBERG: -- and Mr.
Powell?

(No verbal response)

CHAIRMAN HONIGBERG: Are you ready
for the vote?

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

[Multiple members indicating "Aye".]

CHAIRMAN HONIGBERG: Are there any opposed?

(No verbal response)

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

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

(Members reviewing documents)

CHAIRMAN HONIGBERG: Mr. Way.

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

CHAIRMAN HONIGBERG: Is there a second?

CMSR. BAILEY: I'll second.

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

(No verbal response)

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

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

All in favor please say "Aye."

[Multiple members indicating "aye".]

CHAIRMAN HONIGBERG: Are there opposed?

(No verbal response)

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

The third is by the City of
Concord. Commissioner Bailey.

CMRS. BAILEY: I'll start the discussion. In their motion, they claim that Concord won't be able to conduct cross-examination to address issues of specific concern to Concord that are not addressed by the group's spokesperson or by any other party's cross-examination. And I don't recall that that was -- that wasn't my understanding. I thought that if their group didn't represent a specific interest or they weren't able to work it out with the group, that they would be allowed to file a motion, and/or they would have time for cross-examination on their issue, and they would do the cross-examination on their issue, even if they weren't the group spokesperson. Is my understanding of that incorrect?

CHAIRMAN HONIGBERG: That's my understanding as well. If there's a member of a group that is not being represented by the group, or who has matters that they need to bring that are separate from what the group is doing, they need to bring that to the
Subcommittee's attention, either something in
writing, or if it comes up at a hearing or
during the adjudicative hearing on the merits,
they'll have to be dealt with then. But
that's -- you are correct.

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

CHAIRMAN HONIGBERG: I believe that
is correct.

Any further discussion?

(No verbal response)

MR. OLDENBURG: Mr. Chairman.

CHAIRMAN HONIGBERG: Mr. Oldenburg.

MR. OLDENBURG: I need clarification
on the first point. So, if Town A -- I don't
know -- Group A or something says they have an
issue with the environment, and their group
takes a certain tact, one of the towns within
that group could also question or cross-examine
or testify on the environment? I mean, is that what we're saying?

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

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

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

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

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

Mr. Iacopino, do you have any thoughts on this, in terms of what the legal framework in which we're working, how that dictates what we must do or allow parties to
MR. IACOPINO: Okay. Because they were grouped as intervenors, the statute on intervention, R.S.A. 541, I believe it's Section 33, as well as our rules, say that if a grouping substantially interferes with the interests of the intervenor, it shouldn't be granted. The way that we -- they shouldn't be grouped. The way that this Committee has assessed the interests of the intervenors, we found that their -- you found that their interests are not inconsistent and grouped them accordingly. If it turns out that something inconsistent does occur within a group, you've also told the intervenor groups that they should bring that to the attention of the Committee and seek the appropriate relief. It could be that they have different interests with respect to an environmental issue. Maybe they might be on opposite sides, although I don't think that's the most likely issue. I think more likely where there might be some differences, they may not be inconsistent, but they may have different interests in that one
town. For instance, just by way of example:
They might have a particular wetland that they
are particularly concerned about; whereas, the
other two or three towns in that group may not
have concerns about that and don't want to, for
instance, send limited data requests on it.
The town with the wetlands might move the
Subcommittee to allow them to do that.

Same thing at a hearing. If
they -- use the same example. If the person
who is cross-examining on behalf of that
particular intervenor group chooses not to ask
any questions about that particular wetland,
and the town where the wetland exists, that's
part of their interest, they should make that
request of the presiding officer. And assuming
that the presiding officer and Subcommittee
find that, to protect their interests, it's
necessary for them to do that, they would be
permitted to do it. I don't know that you'll
have any situations where the groupings are
people that are diametrically opposed on any
particular issue. It's probably more like the
wetlands example that I provided to you. But
that's the way that -- those are the rules and
the law of the case in this particular docket
right now, given the orders that the
Subcommittee has issued. And they are
consistent with R.S.A. 541 and with our rules.

MR. OLDENBURG: Thank you.

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

CMSR. BAILEY: I understand that this
proceeding is extremely difficult for all
parties. And I don't really see how this is
more difficult for Concord than it is for all
the other parties, and even, frankly, for us.
This is not an easy process to go through, and
we all have to figure out a way to get there.
I think if we granted this intervention -- and
I don't think that Concord has raised anything
that we've overlooked or mistakenly conceived.
You know, they point out that the legislature
intended for municipalities to have an
opportunity to provide their views relative to
the site and facility. Well, we're giving them
that opportunity. It's not how they would
prefer to do it. It's not how they get to do it when the Project is located only in their town. But we can't -- I don't think that we can grant them separate status, because then everybody else will make the same request and the process will get even more unwieldy than it is. And we have a statutory deadline to get it done by a certain date. So, that's my opinion.

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

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

CHAIRMAN HONIGBERG: Is there a second?

MR. WAY: I'll second that.

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

[No verbal response]

CHAIRMAN HONIGBERG: Are you ready for the question?

All right. All those in favor of Commissioner Bailey's motion to deny
Concord's motion for rehearing regarding the groupings will vote aye. Those who are opposed to the motion, would instead like to grant Concord's motion, will vote no. All in favor please say "Aye."

[Multiple members indicating "aye".]

CHAIRMAN HONIGBERG: Are there any opposed?

(No verbal response)

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

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

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

CHAIRMAN HONIGBERG: Ms. Monroe, is there anything else we need to do this evening
before we adjourn?

MS. MONROE: No.

CHAIRMAN HONIGBERG: Would someone make a motion to adjourn?

CMRS. Bailey: I'll make a motion to adjourn.

CHAIRMAN HONIGBERG: Commissioner Bailey moves we acknowledge.

MR. WAY: Second.

CHAIRMAN HONIGBERG: Mr. Way seconds.

All in favor say "Aye."

[Multiple members indicating "aye".]

CHAIRMAN HONIGBERG: Are there any opposed?

(No verbal response)

CHAIRMAN HONIGBERG: We are adjourned.

(Whereupon the hearing was adjourned at 9:02 p.m.)
 HEARING ON PENDING MOTIONS - June 23, 2016  
SEC 2015-06 NORTHERN PASS, LLC AND PUBLIC SERVICE CO. OF NH

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**Note:** The page dimensions are 612.0x792.0 and the text contains various legal terms and dates.
HEARING ON PENDING MOTIONS - June 23, 2016
SEC 2015-06 NORTHERN PASS, LLC AND PUBLIC SERVICE CO. OF NH

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