

TOWN OF ALEXANDRIA

Office of the Selectmen

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February 14, 2017

NHPUC FEB17'17 AM 11:13

Ms. Pamela Monroe, Administrator
New Hampshire Site Evaluation Committee
21 Fruit St., Concord, NH 03301

Dear Ms. Monroe:

We have recently learned of the petition, by the Towns of Pittsburg, Clarksville, Stewartstown and others, for a declaratory ruling by the state to support the principle that municipalities have sole jurisdiction over the use of municipal rights of way. The cause for this petition is the application for the Northern Pass project, which would seek to use municipal rights of way even though none of these Towns have been asked for, or have granted, permission for such use. More specifically, the Towns' petition asks for a ruling *"...stating that pursuant to RSA 231:160 et seq., only municipalities have the authority to authorize or not authorize the erection, installation or maintenance of electrical power poles or structures or underground conduits or cable, or their respective attachments or appurtenances, on, across, or under locally maintained highways, regardless of whether the New Hampshire Department of Transportation (the :NHDOT"), the SEC, or other agencies have authority to permit or license other portions of any proposed facility."*

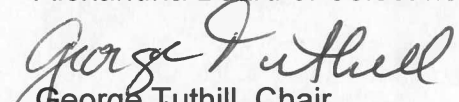
The purpose of this letter is to express our strong support for their petition. Denial of this petition would have distinctly negative consequences for Alexandria even though Northern Pass, were it to be approved and move forward, would not directly impact our Town. This is because such a ruling would establish a damaging precedent related to the Town's authority over its rights of way.

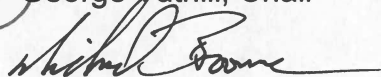
Under state law the Town is required to maintain its roads; authority over the rights of way is necessary to fulfilling that mandate. A ruling that established a private corporation's ability to use the right of way without the Town's permission would necessarily interfere with the Town's meeting its legal responsibility, and raise other issues as well.


In our case, for example, municipal roads are largely on non-deeded rights of way, as they are in many rural communities of the state. Modifications by our Highway Department beyond the traveling surface of the roadway itself generally require notification and permission of the abutting landowners. To permit a private corporation to override the Town's authority in the right of way would effectively allow the corporation to take landowner rights by eminent domain. The Legislature has made clear its intent that this not be allowed.

Moreover, under state law (RSA 231:167) any damage to private property incurred in modifying a right of way is the responsibility of the Town. To deny the Town authority over its rights of way could therefore make the Town liable for damage caused by a third party, and then force it to seek later compensation from that third party, possibly through court action. To assign such risk to our citizens, while the benefits and profits flow to others (e.g., private investors), would be unconscionable.

Best Regards,
Alexandria Board of Selectmen


George Tuthill, Chair


Michael Broome


Robert Piehler