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**The State of New Hampshire****Public Utilities Commission****DE 15-464****Public Service Company of New Hampshire dba Eversource Energy****Petition for Approval of Lease Agreement with Northern Pass Transmission LLC****Motion to Compel Response to Data Request****Amended and Refiled****Puc Rule 203.09(i)(4) Statement**

Intervenors Kevin Spencer and Mark Lagasse dba Lagaspence Realty LLC respectfully move the Public Utilities Commission (Commission) for an Order compelling Petitioner Eversource Energy (Eversource) to provide a response to their June 19, 2107, Data Request. (Exhibit A attached hereto).

**Status of Case**

Eversource filed its Petition in this case alleging that the Commission has jurisdiction under RSA 374:30 to determine if the Lease Agreement is in the public good.

Intervenors Kevin Spencer and Mark Lagasse own the Percy Lodge and Campground in beautiful Stark, New Hampshire. They have invested hundreds of thousands of dollars and endless work in their property in the expectation that it will attract visitors for hiking, fishing, paddling, the beauty of place.

The 150 foot easement that Eversource-PSNH proposes to lease to Eversource-NPT for the construction of the Northern Pass lies behind the Percy Lodge.

The 150 foot easement is occupied by an existing 115 kV alternating current (HVAC) power line.

The 150 foot easement is also occupied by a 24- inch high pressure gas pipeline owned by Portland Natural Gas Transmission System (PNGTS).

Eversource proposes to build the Northern Pass in the 150 foot easement. The project will require the relocation and upgrade of the existing 115 kV HVAC line and the construction of the 320 kV +/- high voltage direct current (HVDC) line.

Eversource proposes to co-locate the high voltage lines, both HVAC and HVDC, in the same 150-foot easement as the high-pressure gas pipeline.

The existence of high voltage electric lines co-located with pipelines pose dangers to workers and people on the ground and threaten the physical integrity of the pipeline.

The interveners' co-location concern has been raised in Site Evaluation Committee (SEC) Docket No. 2015-06, Joint Application of Northern Pass Transmission, LLC and Public Service Company of New Hampshire.

Cross-examination of Eversource witnesses in SEC Docket No.2015-06 shows that Eversource has done *no* engineering that will ensure that the co-location of the high voltage HVAC and HVDC lines with the PNGTS pipeline in the 150 foot easement behind Percy Lodge will be safe or even feasible.<sup>1</sup>

On June 30, 2017, Eversource, pursuant to SEC Order, filed its "Northern Pass HVDC Project Preliminary Interference Assessment" in SEC Docket No. 2015-06. (Exhibit B attached hereto). The Assessment highlights the dangers of co-location of high voltage transmission infrastructure with high pressure gas pipelines. The Assessment also establishes that Eversource has not done the engineering necessary to ensure safe construction of the existing relocated 115 kV HVAC transmission line and the construction of the 320 kV +/- HVDC line.

On July 24, 2017, Commission staff conducted a Technical Session in the instant docket. During the session, Colliers International appraiser Robert P. LaPorte admitted that the appraisal was done without engineering input or analysis on the dimensions or use of the easement for the project. Mr. LaPorte admitted that the selection of real estate appraised was done at the direction of Eversource without any engineering basis as to actual usage dimensionally. The appraisal has no factual underpinning whatever. The arbitrary and factually unsupported appraisal scope raises serious questions about safety not only in the 12 mile pipeline co-location stretch but for the entire length of the project.<sup>2 3</sup>

The Data Request objected to by Eversource seeks information about the safety of the construction of the Northern Pass in the easements the subject of the Lease Agreement.

### **Memorandum in Support of Motion**

The interveners' Data Request is material to the issues before the Commission.

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<sup>1</sup> The evidence in SEC Docket 2015-06 shows that Eversource has not identified locations where blasting will be required to install monopole foundations. Blasting poses the threat of vibrations on the pipeline. Blasting also poses the threat of ground water contamination by nitrate based blasting compounds and emulsions. Eversource has not done test borings to establish blast sites or hydro-geological assessments of ground water.

<sup>2</sup> The issue is what dimensional portion of the 150 foot easement must be used to safely accommodate the 115 kV AC line, the 320 kV DC line and the 24 inch high pressure gas pipe line if the co-location can be safely done at all.

<sup>3</sup> More broadly, the Colliers International admission that the selection of the real estate appraised was done with no factual and engineering basis goes to the competency and integrity of the appraisal itself.

The Commission cannot determine that the Lease Agreement is in the public good under RSA 374:30 without a determination that the Northern Pass can be safely constructed in accordance with RSA 162-H:16, IV(c).<sup>4</sup>

Eversource Energy in its Petition for Approval of the Lease Agreement alleges that the Commission has jurisdiction under RSA 374:30 and that the Lease Agreement will be for the public good.

At paragraph 9 of its Petition, Eversource alleges that it has taken a number of steps to “ensure construction of the NPT Line would be consistent with PSNH engineering standards”.

At paragraph 18 of its Petition, Eversource states that the “public good standard” has been interpreted by the New Hampshire Supreme Court as “equivalent to a declaration that the proposed action must be one not forbidden by law, and that it must be a thing reasonably to be permitted under all the circumstances of the case” citing Grafton County Electric Light & Power Co. v. State, 77 NH 539, 540 (1917).

Eversource, at paragraph 19 of its Petition, goes on to allege that the Lease is not forbidden by law and is, therefore, in the public good.

The Eversource Petition states facts that it cannot prove and a legal conclusion about the public good that it cannot meet.

One, the Eversource allegation at paragraph 9 of its Petition that it has taken steps to ensure construction would be consistent with PSNH engineering standards is a false statement.

Cross examination of the Eversource witnesses in SEC Docket No. 2015-06 shows that Eversource has done *no* safety engineering on the co-location of two high voltage electric lines with the PNGTS high pressure gas pipeline in a 150 foot easement.

Two, because Eversource has failed to conduct any engineering to ensure the safety of the project, it cannot comply with RSA 162-H:16, IV(c). That statute requires that the Northern Pass project not result in unreasonable impacts on health and safety.

Eversource cannot demonstrate that the Northern Pass can or will be safely constructed as required by RSA 162-H:16, IV(c). Eversource cannot establish that the Lease is “not forbidden by law” and in the public good.

#### **Puc 203.09(i)(4) Statement**

Counsel for interveners enquired of counsel for Eversource to ascertain if the discovery dispute, the subject of this Motion, could be resolved informally. Eversource, in the person of Attorney Fossum, repeated the objection to the Data Request.

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<sup>4</sup> See also Puc 506.02 Construction, Operation and Maintenance.

### Wherefore

Intervenors respectfully request that Eversource be ordered to respond to the Data Request attached hereto as Exhibit A.

Intervenors further request that they be awarded attorney fees and expenses for the prosecution of this motion pursuant to RSA 365:38-a as a substantial contribution to this proceeding. The Eversource lack of candor regarding safety engineering in this docket in view of the facts known to Eversource prior to the filing of the Petition herein. The admissions by Eversource witnesses in SEC Docket 2015-06 that no safety engineering has been done warrant the award of fees and expenses. The admissions by the Eversource appraisal witness in the instant docket that the real estate appraised was selected with no engineering basis whatever in view of safety concerns warrant the award of attorney fees.

July 27, 2017

Respectfully submitted,

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### Certificate

I certify that this document was filed and served in accordance with the New Hampshire Public Utilities Commission Rules.

July 27, 2017

/s/ Arthur B. Cunningham

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