

**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**

December 27, 2016

ORDER ON APPLICANT'S MOTION TO STRIKE

I. Background

On June 23, 2016, a Procedural Order was issued in this docket. The procedural schedule was modified by subsequent orders issued on September 22 and October 28, 2016. The modified procedural schedule required Counsel for the Public and the intervenors to submit pre-filed testimony by November 15, 2016 (with the exception of testimony pertaining to market economic issues, local economic issues, natural resources and aesthetics). The procedural schedule was further amended on November 15, 2016, in ways not relevant here.

On December 2, 2016, the Applicant filed a Motion to Strike the pre-filed testimony of a number of individuals. The City of Concord, Counsel for the Public, and the Society for the Protection of New Hampshire Forests (Forest Society) filed timely objections.

On December 13, 2016, the Town of Whitefield filed an Assented-To Motion to Clarify Motion to Strike that was directed at the testimony of Lisa Moran.

This Order grants in part and denies in part the Applicant's Motion to Strike and grants the Town of Whitefield's Motion to Clarify.

II. Discussion and Analysis

A. Assented-To Motion to Clarify

Two different parties submitted testimony by Lisa Moran. One was filed on behalf of the Town of Whitefield. The other was on behalf of the Forest Society. The Town seeks to clarify

that the Motion to Strike and this Order are directed only at pre-filed testimony of Ms. Moran submitted by the Forest Society. The Applicant assents to the Town's request.

The Town of Whitefield's Motion to Clarify is granted. This Order addresses only the pre-filed testimony of Ms. Moran submitted by the Forest Society.

B. Motion to Strike

1. Pre-Filed Testimony Submitted by the Forest Society

The Applicant argues that the testimony of the following individuals filed on behalf of the Forest Society should be struck: (i) Donald Bilodeau and Diane Bilodeau; (iii) Dawn S. Bilodeau; (iv) Dana Bilodeau; (v) Lore Moran Dodge; (vi) Lisa Moran; (vii) Dean Wilber; and (viii) John Conkling.¹

The Applicant argues that the testimony of those individuals should be struck because it does not have any reasonable connection to the Forest Society's basis for intervention. Specifically, the Applicant asserts that the Forest Society sought intervention to address the impact of the Project on its real property interests and that it should be precluded from filing testimony that does not relate to those interests. The Applicant also asserts that the testimony filed by the named individuals is repetitive and not materially different from other testimony filed in this docket.

The Forest Society and Counsel for the Public argue that the Forest Society should not be restricted from filing the testimony because such filings are specifically permitted under the Site 202.24 and RSA 541-A:33. The Forest Society and Counsel for the Public also argue that the Forest Society's participation was not limited and that the Forest Society should be permitted

¹ The Motion to Strike included testimony of Philip Bilodeau. In its Objection, the Forest Society stated, and the Applicant agreed, that the reference to Philip Bilodeau in the Applicant's Motion to Strike was in error. The Forest Society did not offer Philip Bilodeau as a witness.

to file testimony that addresses any relevant issue raised in this docket. The Forest Society argues further that the pre-filed testimony in dispute is not repetitive.

The scope of the Forest Society's participation in this docket was not limited, and the testimony filed by the individuals on behalf of the Forest Society is not repetitive. Each witness raises different concerns and addresses various impacts of the Project on different properties. The Applicant's request to strike the testimony filed on behalf of the Forest Society by Donald and Diane Bilodeau, Dawn S. Bilodeau, Dana Bilodeau, Lore Moran Dodge, Lisa Moran, Dean Wilber and John Conkling, is denied.

2. Pre-Filed Testimony Submitted by Kris Pastoriza and Peter Perkins

The Applicant asserts that the pre-filed testimony submitted by Ms. Pastoriza and Mr. Perkins should be struck because they are not parties in this matter.

Site 202.22(b) provides that the Applicant and the parties shall pre-file testimony as determined by a procedural order issued by the presiding officer. The clear language of the rule indicates that only the Applicant and a "party" to this proceeding may pre-file testimony. Site 102.31 defines a "party" as "each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party," including "intervenor in a proceeding, subject to any limitations established pursuant to RSA 541-A:32, III."

The Subcommittee determined in its Order on Review of Intervention issued on May 20, 2016, that Ms. Pastoriza was not allowed to participate as an intervenor in this docket. Accordingly, she is precluded from submitting pre-filed testimony on her own behalf. The Applicant's request to strike Ms. Pastoriza's pre-filed testimony is granted and her testimony will be treated as a public comment in this docket.

Mr. Perkins never sought intervention. The Applicant's request to strike Mr. Perkins' pre-filed testimony is granted and his testimony will also be treated as a public comment in this docket.

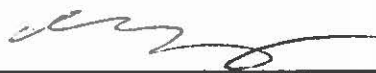
3. Pre-filed testimony of Peter Scott of Sabbow and Co., Inc., Submitted by the City of Concord

The Applicant argues Mr. Scott's pre-filed testimony should be struck because Sabbow and Co. is not a party in this proceeding and because he is not an official or agent of the City of Concord.

The City of Concord argues that Mr. Scott is being offered as the City's witness and the City should be allowed to file his testimony. According to the City, Mr. Scott's testimony directly relates to the issue of the impact of the Project on the orderly development of the region and that issue, among others, is directly related to the City's participation. Counsel for the Public agrees with the City.

The City of Concord's participation is not limited and it may file testimony of witnesses. It is clear from the City's Objection that Mr. Scott is the City's witness and his testimony directly relates to the issues raised in this docket. The Applicant's request to strike the testimony of Mr. Scott is denied.

SO ORDERED this twenty-seventh day of December, 2016.



Martin P. Honigberg, Presiding Officer
NH Site Evaluation Committee