

**The State of New Hampshire**

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**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 for Reconsideration**

Intervenors Kevin Spencer and Mark Lagasse dba Lagaspence Realty LLC<sup>1</sup> move the Public Utilities Commission (PUC) for an Order reconsidering the October 30, 2017, determination that intervenors did not timely request leave to file an additional Data Request on Applicants.

**Status of Case**

PUC Staff filed the Shenehon Appraisal Report on September 18, 2017. Intervenors asked the PUC for leave to file an additional Data Request on Applicants on September 29, 2017. The Procedural Schedule required that intervenors file their second round of Data Requests on or before August 11, 2017.

**Arguments of PUC Staff and Applicants in Opposition to Intervenors' Request**

PUC Staff objected to intervenors' Leave request because intervenors did not request an extension of time before the August 11, 2017, Data Request deadline and that the requested discovery is not properly addressed to Eversource because the Request referred to the September 18, 2017, Shenehon Appraisal Report.

Applicants objected to the Leave request because the Leave request should have been directed to PUC Staff or, alternatively, intervenors could have asked for the discovery of Applicants by the August 11, 2017, deadline or prepare its own appraisal report.

**Memorandum**

Intervenors chose to file their Leave request for additional discovery after the August 11, 2017, deadline because of the shocking disparity between the Applicants' appraisal and the PUC Staff appraisal.<sup>2</sup>

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<sup>1</sup> Intervenors are owners of the servient estate over which Applicants claim the right to construct the Northern Pass. Intervenors are also PSNH rate payers.

<sup>2</sup> PUC Staff should be held accountable for the tardy filing of its appraisal. Staff disingenuously chooses to blame intervenors for filing their Request for additional discovery beyond the discovery deadline when it was PUC Staff's dilatory conduct in filing its Appraisal Report well beyond the intervenors' discovery deadline that triggered intervenors' Request.

The late filed PUC Staff appraisal calls for a Lease rental so significantly lower than Applicants' own appraisal that it demands that the PUC conduct a full evidentiary examination of both appraisals.<sup>3</sup>

Applicants' argument that interveners Leave request was directed to PUC Staff and should have been filed by September 26, 2017, is directly contradicted by the express language of the Request for leave and the PUC Procedural Order. The Applicants improperly misdirected the PUC to the wrong discovery deadline as set forth in the Procedural Order. The discovery deadline for interveners was August 11, 2017, not September 26, 2017. The September 26, 2017, deadline was the deadline for Applicants to file Data Requests on PUC Staff. The tardy PUC Staff appraisal was filed in time for Applicants' discovery but not interveners discovery.

### **The PUC Mistake**

The PUC mistakenly applied the wrong deadline to interveners' Leave request in its determination denying the Leave request. Intervenors are entitled to reconsideration of their Leave request for additional discovery.

### **Wherefore**

Intervenors respectfully request that the PUC reconsider its October 30, 2017, determination and grant interveners leave to serve the Data Request appended to their Leave request.



Respectfully submitted,

/s/ Arthur B. Cunningham

Arthur B. Cunningham

Attorney for Intervenors

PO Box 511, Hopkinton, NH 03229

603-746-2196 (O); 603-219-6991 (C)

[gilfavor@comcast.net](mailto:gilfavor@comcast.net)

Bar # 18301

### **Certificate**

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

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<sup>3</sup> The unconscionable disparity between Applicants' appraisal and the PUC Staff appraisal led to the "Settlement" announced on November 1, 2017.

11/3/17

/s/ Arthur B. Cunningham