

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Docket No. DE 15-459

NORTHERN PASS TRANSMISSION LLC

Petition to Commence Business as a Public Utility

**OBJECTION TO PETITION TO INTERVENE OF
SOCIETY FOR PROTECTION OF NEW HAMPSHIRE FORESTS**

NOW COMES Northern Pass Transmission LLC (“NPT”) by and through its attorneys, McLane Middleton, Professional Association, and respectfully submits this Objection to the Petition to Intervene of the Society for Protection of New Hampshire Forests (“SPNHF”) in the above-captioned docket.

1. On April 12, 2016, SPNHF filed a petition to intervene in the above-captioned proceeding, more than four months after the deadline for intervention set forth in the New Hampshire Public Utilities Commission’s (“Commission” or “PUC”) November 24, 2015 Order of Notice. A prehearing conference was held in the proceeding on December 9, 2015, and a procedural schedule was approved by the Commission on December 14, 2015. Discovery was conducted in January and February 2016, and the hearing in this matter is scheduled for May 17, 2016.

2. According to SPNHF, NPT’s proposed facility [not NPT’s operation as a public utility] will impact SPNHF’s rights, duties, privileges, immunities and other substantial interests. It states that NPT’s petition to commence business as a public utility is integral to the proposed facility and SPNHF notes its concern that its property interests may be substantially affected by NPT’s obligations under the Transmission Agreement (“TSA”) approved by the Federal Energy Regulatory Commission (“FERC”). Petition, p. 3. SPNHF further contends that it “has an

interest in the ‘public good’ assessment that must be made in this proceeding as it may relate to...whether the project is in the public interest” as determined by the Site Evaluation Committee (“SEC”) in a separate proceeding. Petition pp. 3-4. Finally, it points out that it was granted intervention in that separate proceeding, SEC Docket No. 2015-06. Petition, p.4.

3. Beyond the glaring untimeliness of its petition, the bases that SPNHF asserts for intervention in this proceeding are simply not germane to this proceeding. The crux of the inquiry in this collateral proceeding is NPT’s financial, managerial and technical expertise. SPNHF, however, focuses on unrelated and attenuated issues in which it says it is interested, such as the TSA approved by FERC, and the findings the SEC must make to approve a Certificate of Site and Facility.

4. SPNHF’s claims are too generalized to constitute grounds for intervention in a PUC proceeding. As the Commission explained in *Re North Atlantic Energy Corporation*, 87 NHPUC 455,456 (2002), “merely being interested in such a proceeding is not the same as having a legal interest of some nature that may be affected by the proceeding.” Moreover, this is consistent with the New Hampshire Supreme Court’s observation in *Blanchard v. Railroad*, 86 N.H. 263, 264 (1933) that standing does not exist if a party cannot establish that it is “affected by the proceedings in some manner differently from the public, citizens, and taxpayers generally.”

5. The petition does not demonstrate how SPNHF’s rights, duties, privileges, immunities or other substantial interests are affected by the proceeding, or why the interests of justice require its late intervention. It concludes instead that “it is appropriate” to be allowed to intervene here inasmuch as it was allowed to intervene at the SEC in Docket No. 2015-06. Petition, p. 4.

6. This proceeding before the PUC and the proceeding before the SEC are related insofar as NPT's authority to commence business as a public utility is incidental to the SEC's authority to issue a Certificate of Site and Facility. The proceedings, however, are subject to different statutory requirements and focus on different issues. The fact that the Legislature has determined to address the construction of energy facilities in an integrated fashion does not confer party status on every intervenor in the SEC proceeding to every collateral proceeding in which another state agency exercises its permitting authority. There is no basis for concluding that the integrity of the PUC's, or any other agency's, process is affected by anything in RSA Chapter 162-H, other than the imposition of timelines for providing a progress report and issuing a decision. See RSA 162-H:7, VI-b and VI-c.

7. The SEC granted SPNHF intervention in Docket No. 2015-06 by its Order on Petitions to Intervene issued March 18, 2016. The SEC concluded, at p. 31, that SPNHF "has a direct ownership interest in property affected by the [NPT] Project." To the extent SPNHF seeks to protect its property interests, which is the essence of its claim here, it has been permitted to do so before the SEC. It has not shown how its property interests are affected by NPT operating as a public utility, and therefore would not merit party status pursuant to RSA 541-A:32, I, even if it had filed on time.

8. Finally, SPNHF has failed to demonstrate that it is in the interests of justice for it to be granted intervention and that such intervention would not impair the prompt and orderly conduct of the proceeding. With respect to the former, SPNHF does not provide any explanation for its lateness or a sufficient basis for overlooking it. With respect to the latter, contrary to SPNHF's statement at p. 4 of its petition that the "matter has not progressed substantially," the matter has progressed steadily and is about to go to hearing. Accordingly, SPNHF has not met

the burden required for the PUC to exercise its discretionary authority pursuant to RSA 541-A:32, II.

WHEREFORE, NPT respectfully requests that the Commission:

- A. Deny SPNHF's untimely Petition to Intervene; and
- B. Grant such other and further relief as may be just and equitable.

Respectfully submitted,

NORTHERN PASS TRANSMISSION LLC

By Its Attorneys,

EVERSOURCE ENERGY and
MCLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: April 18, 2016

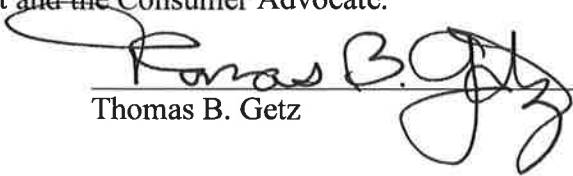
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Certificate of Service

I hereby certify that on the 18th of April, 2016, an original and six copies of the foregoing Motion was hand-delivered to the New Hampshire Public Utilities Commission and an electronic copy was served upon the Service List and the Consumer Advocate.



Thomas B. Getz