

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 15-459

NORTHERN PASS TRANSMISSION, L.L.C.

Petition to Commence Business as a Public Utility

**Order Denying Motion for Rehearing by Society for the Protection
of New Hampshire Forests**

ORDER NO. 25,902

May 18, 2016

In this Order, the Commission denies a motion for rehearing of the Commission's denial of the Society for the Protection of New Hampshire Forests' late petition to intervene in this docket.

I. PROCEDURAL BACKGROUND

On October 19, 2015, Northern Pass Transmission, LLC (NPT), filed a petition to commence business in New Hampshire as a public utility. NPT is a limited liability company organized under the laws of the State of New Hampshire engaged in the business of developing, designing, constructing, owning and maintaining a high voltage electric transmission line and related facilities in New Hampshire (the NPT Project).

NPT plans to construct the NPT Project for the purpose of transmitting hydroelectric power produced in Canada to customers in the New England energy market. The proposed NPT Project will run approximately 192 miles from the New Hampshire border with Canada to a Public Service Company of New Hampshire d/b/a Eversource Energy substation in Deerfield, New Hampshire.

On November 12, 2015, the Office of Consumer Advocate (OCA) filed a letter indicating its participation in this docket pursuant to RSA 363:28. The Commission issued an Order of Notice on November 24, 2015, requiring interventions to be filed on or before December 7 and

setting a prehearing conference for December 9. No parties intervened and the prehearing conference was held as scheduled. Staff and the parties agreed on a procedural schedule, which was approved by the Commission on December 14, 2015. The schedule allowed discovery through February 8, 2016, followed by a technical session which took place on March 1. The hearing, originally scheduled for March 29, has twice been delayed to allow for continued settlement discussions. On April 12, 2016, during the ongoing settlement discussions, the Society for the Protection of New Hampshire Forests (Society) filed a petition to intervene. NPT objected, the Society filed a response to the objection, and NPT moved to strike the Society's response.

On April 25, 2016, by secretarial letter, the Commission noted the scheduled final hearing on May 17, 2016,¹ and denied the Society's late intervention because the Society failed to show that its "intervention at this late stage of the proceedings would be in the interest of justice and would not impair the orderly and prompt conduct of the proceeding." On May 5, 2016, the Society filed a motion for rehearing on the Commission's decision to deny intervenor status. NPT filed an objection to the motion for rehearing on May 11, 2016. The OCA filed a letter on May 16 supporting the Society's motion for rehearing.

II. POSITIONS OF THE PARTIES

A. Society

In its motion for rehearing, the Society claims that this docket is linked to DE 15-460 which deals with a request by NPT to cross certain public waters located in New Hampshire, a docket in which the Society claims an interest. The connection to Commission docket DE 15-460 was not argued in the Society's petition to intervene, which relied instead on purported links to the Site Evaluation Committee's review and approval of the NPT transmission project. The Society repeats its arguments that its late intervention will not impair the orderly

¹ The Commission canceled the hearing at the request of Staff and NPT on May 16, 2016.

and prompt conduct of the proceeding and is in the interest of justice. In the event that the Commission should deny the motion for rehearing, the Society asks the Commission to: (1) rule that the Commission has no authority to adjudicate the rights of property owners; (2) rule that NPT and its affiliates may not avail themselves of the eminent domain process, even if state law changes; and (3) “make affirmative findings that the claimed public benefit does not violate any rules governing affiliate transactions.”

B. NPT

In its objection to the motion for rehearing, NPT states that the motion for rehearing does not state any good reason for reconsideration, but merely restates the Society’s prior arguments. NPT claims that the motion for reconsideration presents the same argument but seeks a different outcome than already determined by the Commission, and that the motion for rehearing should be denied. Finally, NPT claims that the requested rulings are beyond the scope of this docket.

III. COMMISSION ANALYSIS

The Commission may grant rehearing or reconsideration for “good reason” if the moving party shows that an order is unlawful or unreasonable. RSA 541:3, RSA 541:4, *Rural Telephone Companies*, Order No. 25,291 (Nov. 21, 2011). A successful motion must establish “good reason” by showing that there are matters that the Commission “overlooked or mistakenly conceived in the original decision,” *Dumais v. State*, 118 N.H. 309, 311 (1978) (quotation and citations omitted), or by presenting new evidence that was “unavailable prior to the issuance of the underlying decision,” *Hollis Telephone Inc.*, Order No. 25,088 at 14 (April 2, 2010). A successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome. *Public Service Co. of N.H.*, Order No. 25,676 at 3 (June 12, 2014); *see also Freedom Energy Logistics*, Order No. 25,810 at 4 (Sept. 8, 2015).

The Society’s motion for rehearing does not present any new information, nor does it suggest that the Commission overlooked or misunderstood issues in connection with its denial of

different outcome. *Public Service Co. of N.H.*, Order No. 25,676 at 3 (June 12, 2014); *see also Freedom Energy Logistics*, Order No. 25,810 at 4 (Sept. 8, 2015).


The Society's motion for rehearing does not present any new information, nor does it suggest that the Commission overlooked or misunderstood issues in connection with its denial of the Society's intervention. Discovery was complete in this docket two months before the Society filed its motion to intervene, and the final hearing was scheduled. Allowing the Society to intervene at this point would likely impair the orderly and prompt conduct of the proceeding. For these reasons, we deny the motion for rehearing.

That we cancelled the hearing scheduled for May 17, 2016, does not excuse the Society from failing to file a motion to intervene in a timely manner. Because we have denied the Society's initial motion to intervene and its motion for rehearing, we find that NPT's April 22, 2016, motion to strike the Society's response to NPT's objection is moot.

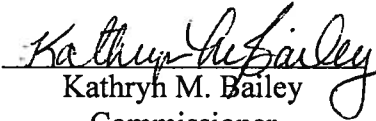
Based upon the foregoing, it is hereby

ORDERED, that the petition by Society for the Protection of New Hampshire Forests for rehearing is hereby DENIED.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 2016.

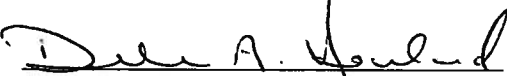


Martin P. Honigberg
Chairman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:
- DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.