

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 15-464

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a
EVERSOURCE ENERGY**

**Petition for Approval of Lease Agreement with Northern Pass Transmission LLC
Order Denying Motion for Reconsideration by Kevin Spencer and Mark Lagasse**

ORDER NO. 25,898

May 9, 2016

In this Order, the Commission denies a motion to reconsider Order No. 25,882 (April 15, 2016). In Order No. 25,882, the Commission, among other things, denied a motion to dismiss this proceeding offered by Kevin Spencer and Mark Lagasse d/b/a Lagaspence Realty LLC (Lagaspence Realty).

I. PROCEDURAL BACKGROUND

On October 19, 2015, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) filed a petition for approval of a lease agreement (Lease) with Northern Pass Transmission, LLC (NPT). Eversource is a public utility operating under the laws of the State of New Hampshire. 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 and Eversource are both subsidiaries of Eversource Energy, a utility holding company with headquarters in Boston, Massachusetts, and Hartford, Connecticut.

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, and end at the Eversource substation in Deerfield, New Hampshire. As part of its business of transmitting and distributing electrical energy, Eversource has acquired certain interests in real property located throughout New Hampshire on which its facilities have been constructed. The Lease is the agreement between Eversource and NPT whereby portions of Eversource's rights-of-way would be leased to NPT for construction and placement of the NPT Project. The Eversource rights-of-way that are the subject of the Lease are located in 19 municipalities and are principally comprised of easements Eversource obtained from private property owners, and of land owned outright by Eversource. The Lease provides that NPT would have the exclusive use of 781 acres of the easement rights, while approximately 472 acres would be designed for shared use between Eversource and NPT. There are approximately 74 acres of remaining land also included in the Lease that have not been designated for a specific use.

On February 10, 2016, Lagaspence Realty filed a motion to dismiss the petition, arguing that the Commission lacks jurisdiction to make decisions on property rights disputes. The Commission issued Order No. 25,882 on April 15, 2016, granting Lagaspence Realty's earlier motion to intervene, and denying the motion to dismiss. The Commission determined that Eversource made sufficient allegations, both legal and factual, to go forward and that such allegations would be tested through the course of this proceeding. Regarding the scope of its review of property rights, the Commission said "[o]ur review of the easements, their ownership, and transferability is necessary, but will be limited to whether the easements on their face appear to be broad enough to allow for construction of the NPT project, and are transferrable in the manner claimed by Eversource." Order No. 25,882 at 6.

Lagaspen Realty filed a timely motion for reconsideration to which Eversource objected.

II. POSITIONS OF THE PARTIES

A. Lagaspen Realty

In its motion for reconsideration, Lagaspen Realty conceded that the Commission may be correct, but argued that the Commission's conclusion "misses the purpose" of the Lease being a condition for NPT's claim before the SEC that it has the necessary easements from owners of private property to construct the NPT Project. Lagaspen Realty repeated its assertion that Eversource and NPT have the burden to prove that they have the property rights to build the NPT Project on the Lagaspen Realty property, and that until so proved, the instant docket "is a waste of time and resources." Lagaspen Realty Motion for Reconsideration at 2.

B. Eversource

In its objection to the motion for reconsideration, Eversource stated that the motion for reconsideration did not state any good reason for reconsideration, but merely repeated the prior arguments of Lagaspen Realty. According to Eversource, the Commission was aware of those arguments when it denied the motion to dismiss and should deny the motion for reconsideration as well. Eversource Objection to Lagaspen Realty Motion for Reconsideration at 2-3.

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 (November 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

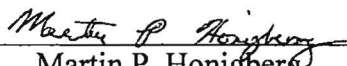
citations omitted), or by presenting new evidence that was “unavailable prior to the issuance of the underlying decision,” *Hollis Telephone Inc.*, Order No. 25,088 at 14 (April 2, 2010). A successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome. *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 (September 8, 2015).

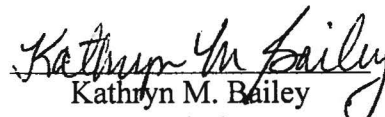
Lagaspence Realty’s motion for reconsideration does not present any new information, nor does it suggest that the Commission overlooked or misunderstood issues in connection with the decision rendered in Order No. 25,882. To the contrary, Lagaspence Realty acknowledges in its motion that the Commission may well be correct. On that basis, we deny the motion for reconsideration.

Based upon the foregoing, it is hereby

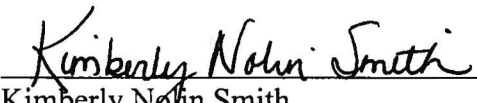
ORDERED, that the petition by Lagaspence Realty for reconsideration of Order No. 25,882 is hereby DENIED.

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


Martin P. Honigberg
Chairman


Kathryn M. Bailey
Commissioner

Attested by:


Kimberly Nolin Smith
Assistant Secretary