

CITY COUNCIL MEETING
AGENDA ITEM IV



CITY OF FRANKLIN
COUNCIL AGENDA REPORT

City Council Meeting of February 2016

From: Elizabeth Dragon, City Manager

Subject: City Council to consider additional legal expenses above and beyond the normal retainer amount

City Manager Recommendation:

1. Councilor moves:

"I move that the Franklin City Council approve additional legal fees through October 2016 estimated to average between \$1,500-\$2,000 per month (not to exceed \$20,000 in total) to participate in the site evaluation process for the Northern Pass project."

2. Mayor calls for a second, discussion, and the vote.

Background:

To gain legal standing in the site evaluation process the city can petition to intervene. There are two ways this could happen. The city could intervene as a legal entity or intervene as an individual in my capacity as "city manager" on behalf of the city. The later choice is recommended as a less expensive alternative. This would require that I attend and participate in the process with the assistance of city attorney to prepare background information, sort out procedural morass, and file briefings etc. It means that I will need to be in the forefront more so that the attorney isn't required to attend as many hearings etc (thereby reducing costs).

Attorney Fitzgerald has provided an estimate of \$1,500 to \$2,000 per month on average with some months being significantly higher and other months lower depending on where we are in the process. He would work to forecast this activity so that decisions could be made concerning the wisdom and desirability of participating in certain phases of the project.

At any point, the council could decide to withdraw from the process entirely.

Other towns/cities are considering intervention. Some are focused on underground burial which could potentially make the project cost prohibitive. Others are also interested in forcing use of the I93 corridor which has the potential of impacting the location of the substation. Therefore, it will become increasingly important that Franklin remain a voice in the conversation.

The deadline to file for intervention is February 5th and therefore time is of the essence. Draft documents have been prepared so that if the city council decides to move forward I can instruct the city attorney move forward in the morning. (copy of draft documents attached)

Alternatives: Do not approve the additional funds and do not intervene in the site evaluation process.

DRAFT

**THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

**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**

SEC Docket No. 2015-06

CITY OF FRANKLIN'S PETITION TO INTERVENE

NOW COMES the City of Franklin and petitions the Site Evaluation Committee ("SEC") to allow it to intervene in the above-captioned matter in accordance with RSA 541-A:32 and New Hampshire Administrative Rule Site 202.11. In support thereof, the City of Franklin says:

1. On October 19, 2015, Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy filed the above-referenced joint application for a Certificate of Site and Facility with the SEC to construct and operate a 1,090 MW electric transmission line and related facilities from the Canadian border in Pittsburg, New Hampshire to Deerfield, New Hampshire.

2. The City of Franklin has a substantial interest in the proposed application. The City of Franklin is located along the proposed and alternate routes for the Northern Pass transmission ("NPT") line. The transmission line in the city will comprise 9.5 miles of overhead; +/- 320 kV DC (direct current) and 0.5 miles of overhead; 345 kV AC (alternating current).

3. Most notably though, a converter terminal will be located in Franklin, New Hampshire that will contain the necessary equipment to convert the power from direct current to alternating current. While the City of Franklin's 2014 total equalized property value is approximately \$536.3 million, NPT's projected property value in Franklin, (which includes this facility), is estimated to be \$358.1 million, which would substantially increase the city's tax base.

4. As a result of the transformational nature of the projected NPT addition to the tax base, the City of Franklin stands to receive tax benefits in the first year estimated in a range up to \$7 million, which would have a very significant positive fiscal impact on the city.

5. RSA 541-A:32 and Site 202.11 govern petitions to intervene. Pursuant to newly enacted administrative rules governing the SEC, “[p]ersons seeking to intervene in a proceeding shall file petitions with the committee” Site 202.11(a).

6. Site 202.11(b) further provides that the SEC, or its presiding officer, shall grant a petition to intervene if:

(1) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the order of notice of the hearing or prehearing conference, not less than 3 days before the hearing or prehearing conference;

(2) The petition states facts demonstrating that the petitioner’s rights, duties, privileges, immunities or other substantial interests might be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(3) The presiding officer or hearing officer, as applicable, determines that the interests of justice and the orderly and prompt conduct of the proceeding would not be impaired by allowing the intervention.

7. Here, the City of Franklin has met the requirements of Site 202.11(b).

8. First, the City of Franklin has submitted its petition in writing and in a timely manner, and has mailed copies as required by the rules. See Site 202.11(b)(1).

9. Second, the City of Franklin has set forth facts that are sufficient to demonstrate that its “rights, duties, privileges, immunities or other substantial interests might be affected by the proceeding.” See Site 202.11(b)(2). Transmission lines from the proposed project, which is the subject of this proceeding, will run directly through the City of Franklin. Most notably, a converter terminal will be built within the City of Franklin. The City of Franklin is estimated to receive considerable tax revenue as a result of the project, which would have a transformational

effect on the city. Based on the facts detailed herein, the City of Franklin has sufficiently demonstrated its “rights, duties, privileges, immunities or other substantial interests” will be affected by the proceeding. See Site 202.11(b)(2).

10. Third, the “interests of justice and the orderly and prompt conduct of the proceeding would not be impaired” by allowing the City of Franklin to intervene. Indeed, justice would best be served by permitting the City of Franklin to intervene and participate in this proceeding, given the impact this proceeding will have on the City of Franklin.

11. Given the above considerations, the City of Franklin has met the requirements of Site 202.11(b).

12. Moreover, the City of Franklin is a municipality that will be affected by the SEC’s action; as such, the City of Franklin is entitled to preferential statutory treatment. RSA 541-A:39 provides that an affected municipality must be given notice of an administrative proceeding and allowed a “reasonable opportunity to submit data, views, or comments with respect to the issuance of a permit, license or any action within its boundaries that directly affects the municipality. Such actions shall include those which may have an effect on land use, land development, or transportation; those which would result in the operation of a business; or those which would have an immediate fiscal impact on the municipality or require the provision of additional municipal services.” Additionally, RSA 162-H:16, IV(b) provides that due consideration must be given to “the views of municipal and regional planning commissions and municipal governing bodies.”

13. Given the nature of the proposed application, the City of Franklin will be directly affected by the proposed project and should, therefore, be permitted to intervene. Such a determination would be consistent with the SEC’s orders in other projects permitting

municipalities to intervene based on RSA 541-A:39 and RSA 162-H:16, IV(b). See, e.g., Order on Pending Motions and Notice of Prehearing Conference, SEC Docket No. 2015-01, at 5–6 (May 19, 2015) (permitting the City of Portsmouth and City of Dover to intervene in a proceeding due to the impact the project could have on both cities); Order on Late-Filed Motions to Intervene, SEC Docket No. 2015-01, at 5 (June 3, 2015) (permitting the Town of Newington to intervene in a proceeding).

14. For all the reasons set forth above, the City of Franklin respectfully requests that the SEC grant its Petition to Intervene.

WHEREFORE, the City of Franklin respectfully requests that the SEC:

- A. Grant the City of Franklin’s Petition to Intervene; and
- B. Grant such other and further relief as may be just.

Respectfully submitted,
CITY OF FRANKLIN

By Its City Manager,

Dated: _____

By: _____
Elizabeth A. Dragon
City Manager
316 Central Street
Franklin, NH 03235
(603) 934-3900
citymgr@franklinnh.org

Certificate of Service

I hereby certify that on this day, an original and one copy of the foregoing petition was sent to the New Hampshire Site Evaluation Committee, and a copy was sent by electronic mail or U.S. Mail, postage prepaid to persons named on the SEC distribution list.

Dated: _____

By: _____
Elizabeth A. Dragon

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2015-06

**Re: 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 22, 2015

PROCEDURAL ORDER

On October 19, 2015, Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively Applicant), filed an Application for a Certificate of Site and Facility (Application) with the Site Evaluation Committee (Committee). The Applicant seeks the issuance of a Certificate of Site and Facility approving the siting, construction, and operation of a 192-mile transmission line and associated facilities with a capacity rating of up to 1,090 MW from the Canadian border in Pittsburg in Coos County to Deerfield in Rockingham County (Project).

On November 2, 2015, pursuant to RSA 162-H:4-a, the Chairman of the Committee appointed a subcommittee in this docket (Subcommittee).

On December 18, 2015, the Subcommittee issued an order finding that the Application contained sufficient information to carry out the purposes of RSA 162-H. The purpose of this Order is to set forth a procedural schedule so that this docket may proceed in accordance with the requirements of RSA 162-H.

Public Information Session

Pursuant to RSA 162-H:10, I-a, the Applicant is required to hold at least one public information session in each county in which the proposed facility is to be located. The public information sessions in this docket are scheduled for:

- When: January 11, 2016**
- Time: 6:00 p.m.**
- Where: Franklin Opera House
316 Central Street
Franklin, NH
(Merrimack County)**
- When: January 13, 2016**
- Time: 6:00 p.m.**
- Where: Londonderry High School
295 Mammoth Road
Londonderry, NH
(Rockingham County)**
- When: January 14, 2016**
- Time: 6:00 p.m.**
- Where: Lake Opechee Inn and Spa
62 Doris Ray Court
Laconia, NH
(Belknap County)**
- When: January 20, 2016**
- Time: 6:00 p.m.**
- Where: Mountain View Grand Resort & Spa
101 Mountain View Road
Whitefield, NH
(Coos County)**

When: January 21, 2016
Time: 6:00 p.m.
Where: The Mountain Club on Loon Resort and Spa
90 Loon Mountain Road
Lincoln, NH
(Grafton County)

A formal order of notice for publication shall be issued and the Applicant shall publish the notice in accordance with RSA 162-H:10, I-a.

Counsel to the Subcommittee, Michael J. Iacopino, is designated to preside as presiding officer of the public information sessions.

At the public information session, the Applicant shall present information regarding the project and provide an opportunity for questions and comments from the public. The presiding officer shall explain to the public the process the Subcommittee will use to review the Application.

Public Hearing

Pursuant to RSA 162-H:10, I-c, the Subcommittee is required to hold at least one public hearing in each county in which the proposed facility is to be located. While the schedule for these public hearings is still being finalized, the Subcommittee is tentatively planning on holding these hearings in Colebrook (Coos County), Waterville Valley (Grafton County), New Hampton (Belknap County), Concord (Merrimack County), and Deerfield (Rockingham County).

A formal order of notice for publication will be issued and the Applicant shall publish the notice in accordance with RSA 162-H:10, I-c.

The public hearing is a joint hearing, with representatives of state agencies that have permitting or other regulatory authority over the subject matter and shall be deemed to satisfy all

initial requirements for public hearings under statutes requiring permits relative to environmental impact. The public hearing will also provide the public with information on the proposed Project, and an opportunity for the public to submit comments and ask questions of the Applicant and the Subcommittee.

Motions to Intervene

Any person seeking to intervene as a party in this docket shall file a motion to intervene on or before the close of business on **February 5, 2016**. Motions to intervene must comply with requirements of New Hampshire Code of Administrative Rules Site 202.11 and RSA 541-A: 32. Previously filed motions to intervene need not be re-filed. Objections to motions to intervene shall be filed by the close of business on **February 26, 2016**. Motions and objections may be sent via first-class mail or e-mail to:

Pamela Monroe, Administrator
NH Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301
pamela.monroe@sec.nh.gov

Prehearing Conference

A prehearing conference will be held on **March 21, 2016 at 10:00 a.m.**, and if needed, on **March 22, 2016 at 10:00 a.m.**, at the Office of the Public Utilities Commission, 21 South Fruit Street, Suite 10, Concord, N.H. 03301. A prehearing conference is an informal proceeding at which the parties to the docket may discuss the issues including, but not limited to: the conduct of discovery and technical sessions; offers of settlement or agreement on any issue; methods to simplify the issues in dispute; stipulations or admissions as to issues of fact or proof by consent of the parties; changes to standard procedures by consent of the parties; limitations on the number of witnesses or scope of discovery; consolidation of witnesses; the filing of the

testimony of witnesses; and any other matter that may aid in the disposition of the proceeding.

The Applicant, Counsel for the Public, intervenors and all other parties shall attend the prehearing conference. To the extent that motions to intervene have not been ruled on, the parties seeking intervention shall attend the prehearing conference.

SO ORDERED this twenty-second day of December, 2015:



Martin P. Honigberg, Presiding Officer
Site Evaluation Committee