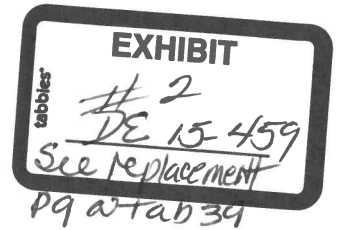


**THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION
NORTHERN PASS TRANSMISSION LLC
Docket No. DE 15-459**



Petition to Commence Business as a Public Utility

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement"), dated May 20, 2016, is jointly sponsored and presented to the New Hampshire Public Utilities Commission (the "Commission" or "PUC") by Northern Pass Transmission LLC ("NPT"), and the Staff of the Commission ("Staff") (together, the "Settling Parties"). This Agreement is offered in order to resolve all issues in the above-captioned proceeding as specifically set forth below.

I. BACKGROUND

This proceeding concerns the petition to commence business as a public utility filed by NPT on October 19, 2015, as part of NPT's application for a certificate of site and facility filed with the New Hampshire Site Evaluation Committee ("SEC") on the same date. NPT seeks SEC approval, pursuant to RSA Chapter 162-H, to construct, operate and maintain a 192-mile, high voltage electric transmission line, with a 1,090 MW capacity, comprising a +/- 320 kV direct current line from the international border between the United States and Canada at Pittsburg, New Hampshire to a converter station in Franklin, New Hampshire, a 345 kV alternating current line from Franklin to a Public Service Company of New Hampshire d/b/a Eversource Energy substation in Deerfield, New Hampshire, and related infrastructure, including six transition stations and certain system upgrades required by the Independent System Operator-New England ("Northern Pass Project"). By virtue of "owning, operating or managing any plant or

equipment...for the manufacturing or furnishing of light...for the public, or in the generation, transmission or sale of electricity ultimately sold to the public” NPT would be a public utility pursuant to RSA 362:2.

NPT requests, pursuant to RSA 374:22, that the Commission grant NPT permission to commence business as a public utility in New Hampshire. NPT asks that the Commission find, consistent with RSA 374:26, that it would be for the public good for NPT to engage in business in those towns in which it seeks to construct an electric transmission line and associated facilities. Those towns include Pittsburg, Clarksville, Stewartstown, Dixville, Millsfield, Dummer, Stark, Northumberland, Lancaster, Whitefield, Dalton, Bethlehem, Sugar Hill, Franconia, Easton, Woodstock, Thornton, Campton, Plymouth, Ashland, Bridgewater, New Hampton, Bristol, Hill, Franklin, Northfield, Canterbury, Concord, Pembroke, Allenstown, Deerfield, Raymond, Candia, Chester, Auburn, and Londonderry.

NPT is subject also to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”). On May 22, 2009, FERC approved the structure of the cost-based participant funded transmission project between NPT and a subsidiary of Hydro-Quebec. On February 11, 2011, FERC issued an Order Accepting Transmission Service Agreement (“TSA”), pursuant to which NPT will develop, site, finance, construct, own, and maintain the electric transmission line and sell firm transmission service. The TSA was subsequently amended and accepted by FERC, effective February 14, 2014. Under the TSA, NPT will provide firm transmission service to Hydro Renewable Energy Inc. (formerly H.Q. Hydro Renewable Energy, Inc.) (“HRE”) over the Northern Pass Project, which will permit Hydro-Quebec (or its subsidiary) to sell power into New England. HRE will pay NPT for firm transmission service pursuant to a FERC-approved,

cost-based formula rate that will enable NPT to recover the costs of development, construction, operation and maintenance, plus a return on investment over a period of 40 years.

For purposes of the Independent System Operator-New England (“ISO-NE”), the Northern Pass Project is an Elective Transmission Upgrade. Consequently, NPT is currently not eligible for regional cost-recovery under the ISO-NE Open Access Transmission Tariff (“OATT”) regulated by the FERC. In addition, before the Northern Pass Project can interconnect to the New England regional electric grid, it must receive approval from the ISO-NE pursuant to Section I.3.9. of its tariff, which requires a showing that there will be no significant adverse effect upon the reliability or operating characteristics of any transmission facilities or systems comprising the regional electric grid.

Pursuant to RSA 162-H:7, IV, NPT’s application to the SEC incorporated a number of collateral petitions to other state agencies, including the petition that is the subject of this proceeding before the PUC. Section I.3.9. approval by the ISO-NE is also considered as part of the SEC’s review. SEC approval of a Certificate of Site and Facility and PUC granting of permission to commence business as a public utility are interdependent. In order to commence construction, NPT requires SEC approval, which, among other things, includes a finding that the Project is in the public interest. Incidental to SEC approval, in order to commence business, NPT requires PUC approval.

The Commission issued an Order of Notice on November 11, 2015, setting a prehearing conference for December 9, 2015. Pursuant to a procedural schedule issued December 14, 2015, Staff and the OCA conducted discovery and met with NPT in a technical session on March 1, 2016. Based on the testimony presented by NPT, written discovery, and discussions at the technical session, Staff concluded that NPT possessed the financial, managerial and technical

capability to operate as a public utility, and agreement was reached on the following scope of jurisdiction.

II. SETTLEMENT TERMS

A. Commencing Business as a Public Utility

Pursuant to RSA 374:22, no business entity shall be authorized to commence business in New Hampshire, or begin the construction of any plant, line, or other facilities in any town, or exercise any right or privilege under any franchise, without first having obtained the approval of the Commission. Pursuant to RSA 374:26, the Commission must find that the exercise of the right to operate a public utility is “for the public good, and not otherwise; and may prescribe such terms and conditions...as it shall consider for the public interest.”

NPT may not commence business as a public utility until such time as it has obtained all necessary permits and authorizations, including, a Presidential permit from the U.S. Department of Energy for purposes of constructing and operating facilities crossing the U.S./Canada border, and a Certificate of Site and Facility from the New Hampshire Site Evaluation Committee, which includes wetlands, alteration of terrain, and shoreland permits from the New Hampshire Department of Environmental Services. Furthermore, NPT may not commence business as a public utility until such time that the Commission approves the petition for lease of Public Service Company of New Hampshire, d/b/a Eversource Energy rights-of-way to NPT that is the subject of Docket No. DE 15-464.

B. Scope of Regulation

The Settling Parties agree that NPT shall be subject to regulation by the Commission as a public utility with respect to the following requirements.

- NPT shall be subject to the annual assessment requirements of RSA 363-A. The assessment will be calculated based on NPT's gross utility revenue pursuant to RSA 363-A:2.
- With the exception of RSA 365:8-a, which applies to suppliers of natural gas, and RSA's 365:22, 365:24 , 365:24-a , which applies to railroads, NPT shall be subject to the provisions of RSA 365, Complaints and Proceedings before the Commission.
- NPT shall be subject to N.H. Code Admin. Rules Puc 200, which implement RSA 365 and govern proceedings before the Commission.
- NPT shall be subject to RSA 366, Affiliates of Public Utilities, and N.H. Code Admin. Rules Puc 2100.
- NPT shall be subject to RSA 369, Issuance of Stock and Other Securities.
- NPT shall be subject to the provisions of RSA 371.
- NPT shall be subject to RSA 374:1, 2-a, 3, 4, 5, 5-a, 7 through 19, and 30-47-a.
- NPT shall participate in the underground utility damage prevention program set forth in RSA 374:48-56, and New Hampshire Code Admin Rules Puc 800.

NPT shall comply with the following provisions of N.H. Code Admin. Rules Puc 300:

- Puc 306, Equipment and Facilities in its entirety, including 306.10, Physical and Cyber Security Plans, Procedures and Reporting.
- Puc 307, Records and Reports.
- Puc 308.06, Accident Reports
- Puc 308.09, FERC Quarterly Financial Reports,
- Puc 308.10, Annual FERC Form No. 1
- Puc 308.12, Authority to Issue Securities
- Puc 308.13, Information Sheet
- Puc 308.15, Transmission Crew Reports during Wide Scale Emergencies

- Puc 308.17 Quarterly Report of Equipment Theft, Sabotage and Breaches of Security

C. Public Interest Programs

NPT will, upon commencement of operation of the Project, make an initial contribution of \$2 million (“Initial Contribution”) into programs that advance clean energy innovation, community betterment and economic development in the State of New Hampshire, including without limitation the Core Energy Efficiency Programs or successor programs, or as part of funds used to finance programs that are part of an Energy Efficiency Resource Standard, as approved by the Commission. Commencing one year from the Initial Contribution and annually thereafter for a period of nine years, NPT will contribute \$2 million to such programs. NPT will make recommendations to the Commission regarding program allocation, which allocation shall be in the sole discretion of the Commission.

D. Contact Information

NPT shall provide the Electric and Safety Divisions an updated list semi-annually of names and contact information, as well as an organizational chart, of company personnel designated to have responsibility for construction, operations and maintenance related issues; for the management and resolution of electric safety complaints referred by the Staff. In addition, an organizational chart shall be submitted semi-annually indicating names and contact information of company personnel designated to have responsibility for field personnel that are involved directly or indirectly with regulatory, legal, design, operations, construction, maintenance, right-of-way acquisition, vegetation management service, training, electric control, dispatch of field personnel and emergency response.

E. Technical Training Requirements

NPT shall make ongoing training available to the Electric and Safety Division as needed, either through sponsorships or assistance with funding, including travel and registration fees. It is agreed this training shall be limited for attendance of up to four PUC person(s) at industry training seminars, or directly by providing industry technical training from NPT Technical training material, which shall be focused upon construction, operations (including emergency response) maintenance issues and applicable compliance with industry codes related to direct current high voltage (“DC”) lines including converter station issues. The purpose of the training is to increase PUC in-house expertise relative to DC facilities.

F. As Built Information

As built locations, including GPS coordinates, shall be provided to the Safety Division within one year of completion of the project in such form as to be determined by discussions between the Director of the Safety Division and NPT, and subject to Critical Information Infrastructure Protection requirements.

G. Electronic Access to Operations Manuals and Procedures

NPT shall provide Safety Division personnel access to electronic versions of Maintenance Manuals, Emergency Plans, quality assurance and other electric safety related procedures maintained by NPT. Safety Division access may be accomplished through thumb drives, virtual private network password protection entry or equivalent means agreed to by the Director of the Safety Division and NPT.

III. RATE TREATMENT

NPT commits that it will not seek recovery of the DC portion of the Northern Pass Project, which totals approximately \$1.5 billion of the overall \$1.6 billion investment in the Project, through regional transmission rates as a Reliability Upgrade. The 345 kV radial AC line portion of the Project (“AC Line”) could be included in regional rates in the future if ISO-NE were to identify a specific reliability need and the AC Line was consequently incorporated into the regional grid as a component of the most cost effective solution to meet that need. The likelihood of such an event, however, is currently remote as indicated in NPT’s response to Request No. OCA 1-007 in NHPUC Docket No. 15-459, which stated that “ISO-NE has not identified a need for a reliability upgrade in its latest 10-year transmission forecast.”

In its Order Accepting Transmission Service Agreement, issued February 11, 2011 in Docket No. ER11-2377-000, the FERC addressed the concern that the TSA permitted Hydro Quebec to request that the AC Line be rolled into regional transmission rates. FERC concluded: “We find that it is premature for parties to contest whether the cost of the AC Line or any upgrade will be rolled into regional rates. At present, HQ Hydro is responsible for all costs associated with the NPT Line, and there will be no impact on the rates for transmission service under the ISO-NE OATT. To be rolled into regional rates, ISO-NE must first determine that the cost of the line or any upgrades should receive regional rate treatment. If ISO-NE makes this determination and parties object to rolling the costs of the project into the regional rates, they can raise those concerns at that time.”

Recognizing the concerns of PUC Staff and the OCA about such a potential consequence at some point in the future, NPT commits to keep PUC Staff and the OCA timely apprised of any emergent reliability needs that could ultimately lead to the inclusion of the undepreciated capital

costs of the AC Line into regional rates, and to work in good faith with PUC Staff and the OCA to assure that any potential rate effect for New Hampshire ratepayers is limited insofar as possible consistent with the ISO-NE OATT and appropriate FERC standards.

Other than the AC Line portion of the Northern Pass Transmission Project mentioned above, NPT will not seek cost recovery from New Hampshire retail electric customers whether under the ISO-NE Tariff or any other cost sharing mechanism that allocates costs to New Hampshire Electric ratepayers. In the event that the Northern Pass Transmission Project can be funded through the FERC Order 1000 process or any other regional cost-sharing mechanism, NPT shall hold harmless New Hampshire retail electric customers from New Hampshire's regionally allocated share of the costs. In the event that the FERC Order 1000 process or any other regional cost sharing mechanism is utilized and for so long as Northern Pass Transmission Project costs are being recovered by such regional cost-sharing process or mechanism, NPT shall continue to hold New Hampshire retail electric customers from paying New Hampshire's regionally allocated share of the costs.

IV. MISCELLANEOUS PROVISIONS

A. This Agreement shall not be deemed in any respect to constitute an admission by any of the Settling Parties that any allegation or contention in this proceeding other than those expressly set forth herein is true or false, or that any particular agreement herein creates a precedent for future decisions.

B. Other than as expressly stated herein, the acceptance of this Agreement by the Commission shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions.

C. This Agreement is expressly conditioned upon the Commission's approval of all provisions herein, without change or condition.

D. The discussions (including workpapers, documents, etc. produced in connection therewith) that have produced this Agreement have been conducted on the explicit understanding that all offers and discussions relating thereto (i) are and shall remain privileged, (ii) shall be without prejudice to the position of any of the Settling Parties presenting such offer or participating in any such discussion and (iii) are not to be used in any manner in connection with these or other proceedings involving any of the parties to this Agreement or otherwise.

E. This Agreement is agreed to on the condition that, in the event the Commission does not approve of it in its entirety, it must be acceptable, in a Party's reasonable business judgment, to a Party whose rights or obligations under the Agreement are materially adversely affected by such modification. If the modification is unacceptable, the Agreement shall be deemed withdrawn and void and shall not constitute any part of the record in this or any future proceeding or be used for any other purpose.

F. This Agreement constitutes the entire agreement among the Settling Parties regarding the subject matter hereof. All previous agreements, discussion, communications, and correspondence regarding the subject matter hereof are superseded by the execution of this Agreement. This agreement shall be binding on NPT's successors and assigns.

G. The Commission shall have continuing jurisdiction to enforce the terms of this Agreement.

V. CONCLUSION

Wherefore, the Settling Parties jointly recommend that the Commission approve this Agreement.

Respectfully submitted,

Northern Pass Transmission LLC

By: 

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By: 

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