

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

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY**

**Docket No. DE 15-464
Petition for Approval of Lease Agreement**

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement"), dated October 27, 2017, is jointly sponsored and presented to the New Hampshire Public Utilities Commission (the "Commission" or "PUC") by Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH"), Northern Pass Transmission LLC ("NPT"), Staff of the Commission ("Staff"), and the Office of the Consumer Advocate ("OCA") (together, the "Settling Parties"). This Agreement is offered to resolve all issues in the above-captioned proceeding as specifically set forth below.

I. BACKGROUND

This proceeding concerns PSNH's October 19, 2015 petition for approval of a lease agreement with NPT pertaining to certain real estate interests of PSNH, consisting of portions of rights-of-way in nineteen New Hampshire municipalities ("Lease"). The leased real estate interests are principally easements but some are owned in fee by PSNH. In total, approximately 781 acres of right-of-way will be for the exclusive use of NPT, while approximately 472 acres will be for shared or common use by PSNH and NPT, and approximately 74 acres constitute remnants, or leftover portions of right-of-way.

The Lease relates to the application for a certificate of site and facility filed jointly by NPT and PSNH with the New Hampshire Site Evaluation Committee ("SEC") on October 19, 2015. The application seeks approval to construct, operate and maintain a 192-mile, high

voltage electric transmission line, with a 1,090 MW capacity, which includes 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 PSNH substation in Deerfield, New Hampshire, and related infrastructure ("Northern Pass" or "Project"). The SEC's determination approving the application is dependent upon the Commission's approval of the Lease, which establishes site control for approximately 100 miles of the Project route.

The Commission issued an Order of Notice on January 29, 2016, setting a prehearing conference for February 19, 2016. On September 12, 2016, the Commission requested legal memoranda addressing the scope and transferability of certain PSNH easements and, on April 6, 2017, in Order No. 26,001, it determined that PSNH had made a *prima facie* showing of its legal authority relative to the easements and that the terms of the various easements permitted the specific use proposed under the Lease – transmission of electricity.

The Commission then issued a procedural schedule on June 20, 2017, which was subsequently modified, pursuant to which multiple rounds of discovery were conducted and technical sessions were held on July 24 and September 7, 2017. Based on the testimony presented by PSNH, Staff and the OCA, along with written discovery and discussions at technical sessions, the Settling Parties reached agreement on the following terms.

II. SETTLEMENT TERMS

A. Public Good

Pursuant to RSA 374:30, a public utility may lease any part of its franchise, works or system when the Commission finds that it will be for the public good. Central to the determination that the Lease is for the public good is a finding that the compensation under the

Lease is just and reasonable. In that regard, PSNH and Staff engaged independent appraisers. PSNH retained Colliers' International Valuation and Advisory Services to calculate the fair market value of the Lease, and Commission Staff retained Shenhon Company. The appraisers determined, respectively, that the average annual payments over the 40-year term of the Lease would be approximately \$795,000 and \$125,000. To resolve the differences in these valuations without further proceedings, the Settling Parties have agreed that an annual lease payment at the midpoint between the fair market values calculated by the independent appraisers, approximately \$460,000, represents a reasonable compromise of the factual issues, provides fair compensation to PSNH for the benefit of its customers, and is otherwise just and reasonable. Attachment A sets forth the actual schedule of annual payments.

PSNH also provided the testimony of Messrs. Jiottis and Andrew demonstrating that PSNH had undertaken its own analysis and review to determine that the construction of the Northern Pass Project would be consistent with PSNH engineering standards and that the use of the proposed rights-of-way by the project would not impair system reliability or PSNH's ability to provide safe and reliable service to its distribution customers. In addition, Mr. Giuliano provided testimony explaining that the Lease was consistent with other ground leases to which PSNH is party and that its terms would provide protections to PSNH, and therefore its customers, consistent with those other leases. Finally, Ms. Cooper and Mr. Chung provided testimony explaining the accounting and ratemaking treatment of the revenues that PSNH would receive under the Lease. The Settling Parties agree that the combined testimony of Mr. Jiottis (later adopted by Mr. Bowes), Mr. Andrew, Mr. Giuliano, Ms. Cooper, and Mr. Chung further support a finding that the Lease will be for the public good.

B. Public Interest

Pursuant to Puc 203.20 (b), the Commission shall approve a settlement “if it determines that the result is just and reasonable and serves the public interest.” In addition to the disposition above regarding the fair market value of the Lease, that such Lease is just and reasonable and is in the public good, the Settling Parties stipulate that this Agreement is in the public interest and resolves all related issues in this proceeding. In further support of the public good requirement in RSA 374:30 and the public interest requirement of Puc 203.20 (b), the Settling Parties agree that NPT will, for each year of commercial operation of the Project, make an annual payment into a fund under the direction and control of the Commission for programs, projects or other purposes that provide benefits to New Hampshire distribution customers, including but not limited to demand response, distributed generation (including energy storage), electric vehicles, and other non-transmission alternatives (“Fund”). The annual payments, which total approximately \$15 million, are conditioned upon continued commercial operation of the Project and will apply for the first 40 years of NPT’s commercial operation consistent with the schedule set forth in Attachment B. In any future proceeding, Staff and the OCA may make recommendations to the Commission regarding the use of such payments, which shall be at the sole discretion of the Commission. The parties understand that PSNH may recommend to the Commission the designation of payments to benefit PSNH distribution customers, which shall be subject to Commission approval.

C. Conformed Lease

PSNH and NPT will submit an executed Conformed Lease to the Commission within 10 days of its approval of this Agreement. The Conformed Lease will revise Section 3.3 Lessor’s

Appraisal Cost to reflect this Agreement, substitute revised Appendices B, C, D, and E as appropriate, and otherwise revise the Lease in accordance with the Commission's final order.

III. 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. The Settling Parties agree that, to the extent deemed necessary by the Commission to evaluate this Agreement, the testimony of PSNH's witnesses shall be admitted as full exhibits into the record in this proceeding. The Settling Parties' agreement to admit this testimony without challenge does not constitute agreement by the Settling Parties that the content of the written testimony is accurate or what weight, if any, should be given to the views of any witness, except as may be specifically provided in this Agreement.

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 work papers, 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.

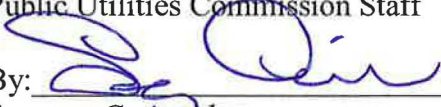
G. The Commission shall have continuing jurisdiction to enforce the terms of this Agreement.

IV. CONCLUSION


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

Respectfully submitted,

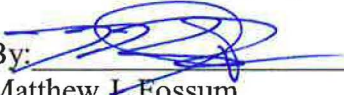
Public Utilities Commission Staff

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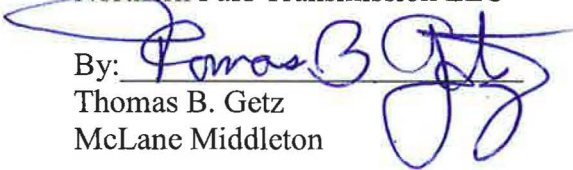
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