

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 22-027**

**NEW HAMPSHIRE TRANSMISSION, LLC**

**Petition for Authority to Construct, Own, Operate, and Finance Additional  
Transmission Equipment at Seabrook, New Hampshire**

**Order *Nisi* Granting Petition**

**ORDER NO. 26,672**

**August 26, 2022**

**I. PROCEDURAL HISTORY**

On April 11, 2022, New Hampshire Transmission, LLC (NHT) filed a petition for authority to construct, own, operate, and finance new electric energy transmission equipment and other appurtenant infrastructure, known as the Seabrook Capacitor Banks Project (Project), in Seabrook, New Hampshire. Accompanying its petition, NHT pre-filed the direct testimony of Richard Allen, President of NHT, and other appendices.

On June 10, 2022, the New Hampshire Department of Energy (DOE) filed a notice of appearance.

On July 7, 2022, the Commission held a duly noticed prehearing conference.

On July 22, 2022, NHT responded to a Commission record request issued at the prehearing conference.

On August 12, 2022, the DOE filed the technical statement of Jay E. Dudley and Mark P. Toscano on behalf DOE's Division of Regulatory Support.

On August 22, 2022, NHT filed a response to the technical statement of Jay E. Dudley and Mark P. Toscano.

On August 23, 2022, the DOE filed a response to NHT's response dated August 22, 2022.

On August 25, the DOE filed a motion for confidential treatment relating to identified information in the technical statement of Jay E. Dudley and Mark P. Toscano.

The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-027.html>.

## **II. PARTY POSITIONS**

### **a. New Hampshire Transmission**

#### **i. Authority to Construct and Operate New Facilities**

NHT stated that it is required to seek Commission authorization to construct transmission equipment beyond an existing transmission substation it owns and operates pursuant to RSA 374:22, RSA 374:26, and the terms of a settlement agreement approved by the Commission in Order No. 24,321 (May 7, 2004). Based on these requirements, NHT requested permission to construct, own, and operate the Project. NHT described the Project as consisting of transmission equipment, including capacitor banks, breakers, switches, busswork, aboveground electric lines, control house, protection, control, communication, and other appurtenant infrastructure adjacent to an existing transmission substation in Seabrook, New Hampshire.

According to NHT, the Commission should grant the petition because: 1) the Project's need is demonstrated by ISO-NE in the New Hampshire 2029 Solutions Study; 2) ISO-NE selected the Project as the preferred solution to address that

reliability need; 2) NHT affiliates and predecessors in interest have been recognized as having the financial, technical and managerial capability to own and operate energy facilities in New Hampshire; 3) the Commission is authorized and obligated to grant a competing electric utility franchise if it determines it would serve the public good; and 4) the Commission may grant an independent transmission company the authority to provide transmission services in New Hampshire when the Commission determines that it will serve the public good.

In support of its position that NHT possesses the financial, technical, and managerial capability to own and operate energy facilities in New Hampshire, NHT submitted the pre-filed testimony of Richard Allen, President of NHT. According to NHT, its access to the resources of NextEra affiliates meets that standard, and it follows that it is for the public good to approve NHT's request for additional permission to engage in business as a public utility and allow it to construct and operate the Project.

ii. Financing Permission

NHT stated that since the issuance of Order No. 24,321, NHT has sought and obtained approval from the Commission for financings of equipment upgrades, capital costs and operating expenses at its existing transmission substation, including a loan agreement with NextEra Capital Holdings, Inc., as approved by Order No. 26,432 (December 17, 2020). NHT requested authorization to pay for the Project with funds from the existing loan agreement with NextEra Capital Holdings, Inc. NHT also requested an extension of the term of that loan agreement for an additional year, until January 1, 2024, to accommodate construction of the Project. According to NHT,

because it has no retail ratepayers in New Hampshire, the Commission should construe this as a routine financing request subject to a limited review.

In reply to the DOE's technical statement, NHT stated that it should not be limited in drawing down the existing loan agreement based on projected costs, but should be allowed to draw down as necessary, within the limits of the approved loan agreement based on actual costs.

**b. Department of Energy**

The DOE recommended the petition be approved as submitted, though an order *nisi*.

i. Authority to Construct and Operate New Facilities

The DOE agreed that NHT needs the Commission's approval to construct, own, and operate new transmission facilities, which in turn requires the Commission to make a public good finding. The DOE stated that purpose of the Project is to improve the operating efficiency of the New England electric power grid and help with transmission voltage stability during disturbances and high load conditions. The DOE concluded that the need for the Project is clear, supported by documentation, and is consistent with the public interest.

The DOE also concluded that NHT possesses the financial, technical and managerial capability based on: 1) the financial backing available to NHT as a subsidiary of NextEra Energy, Inc.; 2) the management and administrative expertise available to NHT as a subsidiary of NextEra Energy Transmission, LLC; and 3) the technical resources, experience, and expertise available to NHT throughout the NextEra organization.

ii. Financing Permission

The DOE concluded that the financing extension request represents a routine financing request. The DOE stated that it views NHT's financing request differently than it does a typical financing petition from a fully regulated electric utility where financings have a direct impact on ratepayers. According to the DOE, even though the financing affects the Company's financial condition, because NHT is a transmission utility, the resulting revenue requirements and customer rates fall under the purview of the Federal Energy Regulatory Commission (FERC) and not under that of the Commission. According to the DOE, it is apparent that the Company's proposed draw-down under the Loan Agreement will not have a significant impact on NHT's current capital structure.

In response to NHT's reply, the DOE amended its technical statement confirming that proposed drawdowns under the loan agreement above the projected Project costs, but only up to the remaining available credit amount, should be permitted without additional Commission approval.

iii. Confidentiality

The DOE moved the Commission to grant confidential treatment of certain information on pages 2 and 3 of the technical statement of Jay E. Dudley and Mark P. Toscano based on federal law. Specifically, the DOE stated that the identified information contains Critical Energy Infrastructure Information (CEII) obtained directly from ISO-NE, which is exempt from mandatory disclosure pursuant to 16 U.S.C.A. § 824o-1(d)(1)(A). According to the DOE, confidential treatment should be granted to protect against the uncontrolled distribution of the specific engineering, vulnerability, and design information about proposed and existing critical infrastructure, the dissemination of which may jeopardize critical infrastructure and

have severe negative impacts to national security, economic security, or public health and safety.

### **III. COMMISSION ANALYSIS**

#### **a. Authority to Construct and Operate New Facilities**

RSA 374:22 states that no business entity shall "... begin the construction of a plant, line, main, or other apparatus or appliance ... in any town in which it shall not already be engaged in such business ... without first having obtained the permission and approval of the commission." RSA 374:26 provides that such permission shall be granted after a finding that such construction would be for the public good, and may be granted without hearing when all interested parties are in agreement. The settlement agreement approved by the Commission in Order No. 24,321 granted NHT's predecessor limited authority to construct and engage in business operating a transmission substation, but no further permissions to expand utility operations.

We find that authorizing NHT to construct and operate a reliability enhancement project selected by ISO-NE as a preferred solution to an identified reliability concern is for the public good. The records and filings offered by NHT and the DOE confirm that cost recovery for this project will occur pursuant to the terms of the ISO-NE open access transmission tariff (OATT), that the Project was selected by ISO-NE as a preferred solution to an identified reliability concern from a pool of multiple potential solutions, and that the overall rate impact to all New Hampshire ratepayers is relatively small, ranging from \$110,000 to \$130,000 per annum in calendar years 2023 through 2026. *See, e.g.*, pre-filed direct testimony of Richard Allen; technical statement of Jay E. Dudley and Mark P. Toscano; and Record Request Response of

July 22, 2022. NHT's request for authority to construct new facilities is therefore approved on a *nisi* basis.

**b. Financing Permission**

RSA 369:1 states that a utility “may, with the approval of the commission but not otherwise, issue and sell ... notes and other evidence of indebtedness payable more than 12 months after the date thereof for lawful corporate purposes.” The Commission must conduct a “hearing or investigation as it may deem proper,” then authorize the financing “if in its judgment the issue of such securities upon the terms proposed is consistent with the public good.” RSA 369:4. The Commission reviews the amount to be financed, the reasonableness of the terms and conditions, the proposed use of the proceeds, and the effect on rates. *Appeal of Easton*, 125 N.H. 205, 211 (1984).

We agree with NHT and the DOE that this is a routine request, subject to limited scrutiny. *Hampstead Area Water Company, Inc.*, Order No. 26,381 at 9 (July 21, 2020). For all the reasons stated above, NHT's proposed extension of an existing loan arrangement and use of proceeds of the existing loan arrangement, up to the maximum amount of available credit initially authorized by Order No. 26,432, is consistent with the public good. NHT's financing request is therefore approved on a *nisi* basis.

**c. Confidentiality**

Pursuant to N.H. Code Admin. R. Puc 203.08, the commission shall upon motion issue a protective order providing for the confidential treatment of information upon a finding that the information is entitled to such treatment pursuant to RSA 91-A:5, or other applicable law. We find that the information identified by the DOE in its

motion is CEII and therefore is protected from potential disclosure under RSA 91-A. See 16 U.S.C.A. § 824o-1(d)(1)(B). See also, RSA 91-A:4, II (providing for disclosure “except as otherwise prohibited by statute”). To the extent that New Hampshire Code of Administrative Rules, Puc 203.07(e) provides 10 days for objections, it is hereby waived.

**Based upon the foregoing, it is hereby**

**ORDERED NISI**, that subject to the effective date below, New Hampshire Transmission, LLC’s Petition for Authority to Construct, Own, Operate, and Finance Additional Transmission Equipment in Seabrook, New Hampshire is APPROVED; and it is

**FURTHER ORDERED**, that the Petitioner shall cause a copy of this order to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than September 2, 2022 and to be documented by affidavit filed with this office on or before September 9, 2022; and it is

**FURTHER ORDERED**, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than September 16, 2022 for the Commission’s consideration; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than September 23, 2022; and it is

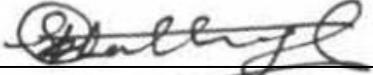
**FURTHER ORDERED**, that this order shall be effective September 28, 2022, unless the Petitioner fails to satisfy the publication obligation set forth above or the

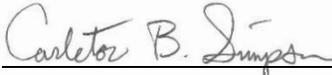
Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

**FURTHER ORDERED**, that the New Hampshire Department of Energy's motion for confidential treatment of CEII contained in the Technical Statement of Jay E. Dudley and Mark P. Toscano is GRANTED; and it is

**FURTHER ORDERED**, that the hearing scheduled in this matter on August 30, 2022 is CANCELLED.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of August, 2022.

  
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Pradip K. Chattopadhyay  
Commissioner

  
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Carleton B. Simpson  
Commissioner

## Service List - Docket Related

Docket# : 22-027

Printed: 8/26/2022

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