

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 15-284**

**NEW ENGLAND POWER COMPANY D/B/A NATIONAL GRID**

**Petition for License to Construct and Maintain Electric Lines and Shield Wire  
Over and Across State Waters and Land in the Town of Windham, New Hampshire**

**Order *Nisi* Granting License**

**ORDER NO. 25,907**

**June 24, 2016**

In this order *nisi*, the Commission grants the request of New England Power Company d/b/a National Grid (NEP) for a license to construct and maintain electric lines and associated shield wires over and across public waters and lands owned by the State of New Hampshire in the Town of Windham. This order is being issued on a *nisi* basis to ensure that all interested parties receive notice of the Commission's order and have the opportunity to comment or request a hearing prior to the date set forth for comment in the ordering clauses below. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2015/15-284.html>.

**I. SUMMARY OF PETITION**

On July 21, 2015, NEP filed a petition, pursuant to RSA 371:17, for a license to construct and maintain a new 345 kV and a relocated 115 kV electric transmission lines and associated shield wires over and across Beaver Brook, which is a non-navigable public waterway, and for license to construct and maintain the 345 kV line over lands owned by the State of New Hampshire adjacent to Route 111 in the Town of Windham. The new 345 kV transmission line

will be known as the “3124 Line.” The 3124 line will run from Scobie Pond Substation in Londonderry, owned by Public Service Company of New Hampshire d/b/a Eversource (Eversource), to the Massachusetts border. The 3124 Line will then continue from the Massachusetts border to National Grid’s Tewksbury #22A Substation. NEP explained that this Project is part of the Merrimack Valley Reliability Project (MVRP) jointly-owned by NEP and Eversource. The New Hampshire portion of the MVRP is approximately 17.9 miles long, of 24.4 total miles, and is within existing NEP and Eversource rights-of-way. The New Hampshire portion of the route relevant to this docket currently consists of three NEP-owned transmission lines: the N-214 (230 kV); the Y-151 (115 kV); and the O-215 (230 kV). The lines run through the New Hampshire towns of Londonderry, Hudson, Windham, and Pelham.<sup>1</sup> NEP’s petition indicated that the projects in this docket will involve relocating the existing Y-151 Line to the western edge of the existing right-of-way and constructing the new 3124 Line in its place.

According to the petition, the MVRP became necessary to address reliability concerns discovered by ISO-New England. Due to load growth and aging infrastructure, ISO-NE decided that additional capacity would be needed to meet the region’s demand. Therefore, in order to meet the reasonable requirements of service to the public, NEP and Eversource jointly proposed the MVRP, which would resolve the reliability issues identified by ISO-NE. Eversource filed a request for line crossings for its portion of the MVRP in Docket No. DE 15-285.

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<sup>1</sup> The Massachusetts section of the MVRP is approximately 6.5 miles and traverses the towns of Dracut, Andover, and Tewksbury. NH Site Evaluation Committee Application July 2015 Section C page 6. NEP will own 14.6 miles with 8.1 miles in Pelham, Windham, and Hudson and another 6.5 miles in the Massachusetts communities of Dracut, Andover and Tewksbury. PSNH will own 9.8 miles in Londonderry and Hudson.

NEP filed supporting attachments and exhibits with its petition. NEP provided Commission Staff (Staff) with supplemental information<sup>2</sup> during the course of Staff's review.

***A. Crossing Locations and Construction***

NEP's petition requests a license for two water crossings over Beaver Brook. The relocated Y-151 Line will cross Beaver Brook, and the new 3124 Line will cross both Beaver Brook and state-owned land that is outside of the highway right-of-way for, and adjacent to, Route 111 (Haverhill Road). The proposed crossings over and above Beaver Brook are located between Haverhill Road in Windham (Route 111) and Bockes Road in Hudson.<sup>3</sup> Beaver Brook serves as the boundary between Windham and Hudson.

**Y-151 Line Crossing over Beaver Brook.** The petition indicated that the existing Y-151 Line will be moved from the center of the right-of-way to 28.5 feet from the western edge, and will cross over Beaver Brook in its new location. The distance between structures 82 and 83, the structures on either side of Beaver Brook, is approximately 703 feet. At the location of this crossing, the main stem of Beaver Brook is approximately 55 feet. According to the petition, the Y-151 Line will have a minimum clearance of 25 feet above the water level. NEP submitted information based on a survey showing that the Y-151 Line will be relocated within the existing right-of-way but outside the State-owned parcel of land that is adjacent to Route 111.

**3124 Line Crossings.** The petition stated that the new 3124 Line crossing will be located at the center of the 350-foot right-of-way from which the existing Y-151 Line is being relocated,

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<sup>2</sup> On February 26, 2016, NEP provided a memo to the Safety Division in response to information requests made to the Company.

<sup>3</sup> NEP indicated that it will be entering into an Occupancy and Use Agreement with the New Hampshire Department of Transportation (NHDOT) for the crossing over Route 111.

and will cross Beaver Brook where the Y-151 Line currently crosses.<sup>4</sup> The distance between structures 144 and 145, the structures on either side of Beaver Brook, is approximately 919 feet. The width of Beaver Brook is approximately 87 feet at this location. According to the petition, the 3124 Line will have a minimum clearance of 30 feet above the water level. The new 3124 Line will also cross a parcel of New Hampshire Department of Transportation (“NHDOT”) State-owned land identified as Lot 14-A-300A adjacent to Route 111.

The petition stated that the Company will do all work associated with the crossings in a manner that conforms to the 2012 National Electrical Safety Code (NESC) C2-2012. In its petition, NEP verified that the proposed crossings have been designed and will be constructed, maintained, and operated in accordance with the applicable requirements of the NESC and that they will comply with minimum water and ground clearance requirements.

***B. Regulatory Requirements***

NEP stated that installation of the cables across Beaver Brook will not require any dredging or use of heavy equipment in the brook, and that the flow of the brook will not be diverted or altered for the Project. Beaver Brook is not designated as a navigable waterway under the NH Programmatic General Permit. NEP indicated that it has applied to the New Hampshire Department of Environmental Services (NHDES) for a Shoreland Permit for the Beaver Brook crossings. In addition, the petition asserted that NEP and Eversource have consulted with the NHDOT and will obtain all necessary permits for work on and over Route 111.

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<sup>4</sup> This permanent easement allows for multiple circuits to be placed, including pole structures and conductors.

### ***C. Property Rights***

According to its petition, NEP owns permanent easements for the rights-of-way at each crossing location. NEP attested that all rights necessary to construct and maintain the lines over and above Beaver Brook have been obtained, and that no taking of private property or acquisition of other property rights is required.

### ***D. Public Interest***

NEP submitted that it can exercise the rights granted by the licenses without affecting or diminishing the rights of the public. NEP attested that minimum safe line clearances above affected public waters and lands will be maintained at all times. The use and enjoyment by the public of said waters and lands will not be diminished in any material respect as a result of the crossings.

## **II. SUMMARY OF STAFF REVIEW**

Safety Division Staff (Staff) reviewed NEP's petition and supporting attachments, applicable statutes and rules, and NESC requirements. Staff also reviewed the ownership of the land, as well as the impacts of the proposed crossings. In a memorandum filed on June 16, 2016, Staff summarized the findings of its investigation and recommended approval of the Company's petition. Staff also recommended that NEP be required to forward the Commission's order, after 30 days of publication notice, to the Site Evaluation Committee for consideration in SEC proceeding 2015-05. *See* June 16, 2016, Staff Recommendation from Randall Knepper and June 22, 2016, Correction to Referenced Attachments.

### III. COMMISSION ANALYSIS

Pursuant to RSA 371:17, Licenses for New Poles, utilities must obtain a license from the Commission to “construct a pipeline, cable, or conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of this state, or over, under or across any of the land owned by this state,” when such facilities are necessary to meet the reasonable requirements of service to the public. Based on the information presented in NEP’s petition and Staff’s recommendation, we find that the proposed crossings are necessary for NEP to meet the reasonable requirements of service to the public, as required by RSA 371:17.

RSA 371:20 authorizes the Commission to grant a license if it “may be exercised without substantially affecting the public rights in said waters or lands.” Three transmission lines currently cross Beaver Brook and the State-owned land at this location. NEP has affirmed it will construct and maintain these lines consistent with the NESC. We find the addition of the 3124 Line and relocation of the Y-151 Line will not substantially affect public rights at these locations.

Accordingly, we approve the petition subject to the conditions contained in the ordering clauses set out below related to ensuring safe construction, operation, and maintenance of the crossings. We issue our decision on a *nisi* basis to provide any interested person the opportunity to submit comments on NEP’s petition, or to request a hearing.

NEP is responsible for obtaining any and all other permits for the construction and installation of the proposed crossings from any federal, state, and local authorities having jurisdiction. Our approval is only for the electric lines and associated wires proposed by NEP in this docket. Because NEP requires a Shoreland permit from the NHDES and one or more

approvals from the NHDOT, we require that this Order, along with the Order Summary, be sent to each of those agencies, and any other agency having jurisdiction over any segment or portion of these crossings. We also require NEP to provide notice of this Order to the Towns of Windham and Hudson.

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

**ORDERED *NISI***, that subject to the effective date below, NEP is authorized pursuant to RSA 371:17 *et seq.*, to construct, install, operate, and maintain electric lines and optical ground wires over and across public waters and lands as described in its petition and depicted in its filings; and it is

**FURTHER ORDERED**, that this approval is limited to the construction of electrical lines under consideration in this docket, and it is conditioned on the requirement that NEP construct, install, operate, and maintain, consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Code Admin Rules Puc 306.01, as may be applicable and as amended from time to time, and all other applicable safety and preservation standards in existence at that time; and it is

**FURTHER ORDERED**, that NEP shall maintain proper clearances for its lines and cables at all times across the entire length of each span licensed, pursuant to NESC 232B and 235C; and it is

**FURTHER ORDERED**, that NEP shall submit any future proposed alteration(s) to the crossing license granted herein at least 60 days prior to any such alteration(s); and it is

**FURTHER ORDERED**, that NEP shall provide a copy of this Order *Nisi* to (i) Town Clerks of Windham and Hudson, New Hampshire; (ii) the New Hampshire Department of Environmental Services in consideration of the Shoreland Water Quality Protection Act (RSA 483-B); (iii) New Hampshire Department of Transportation; and (iv) the Office of Secretary, U.S. Department of Commerce; and (v) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the crossing, as required by RSA 371:19; by first class mail, no later than July 6, 2016, and to be documented by affidavit filed with this office on or before July 22, 2016; and it is

**FURTHER ORDERED**, that NEP shall cause a summary of this Order *Nisi* 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 July 6, 2016, and to be documented by affidavit filed with the Commission on or before July 22, 2016; and it is


**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* 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 July 13, 2016, 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 July 20, 2016; and it is

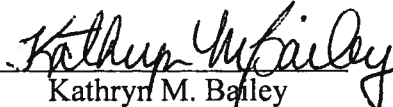
**FURTHER ORDERED**, that this Order *Nisi* shall be effective July 24, 2016, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.



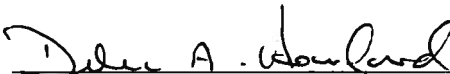
By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of  
June, 2016.

  
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Martin P. Honigberg  
Chairman

  
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Robert R. Scott  
Commissioner

  
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Kathryn M. Bailey  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director