

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-087

VERMONT ELECTRIC POWER COMPANY, INC., AND VERMONT TRANSCO, LLC

Petition for Approval of Assignment of Easement Rights

Order *Nisi* Approving Transfer

ORDER NO. 26,304

October 29, 2019

This order approves the transfer of easement rights in Claremont from Vermont Electric Power Company, Inc., and Vermont Transco, LLC to Public Service Company of New Hampshire d/b/a Eversource Energy. This order is issued on a *nisi* basis to ensure that interested persons receive notice and have the opportunity to comment or request a hearing before it becomes effective.

I. PROCEDURAL HISTORY

On April 29, 2019, Vermont Electric Power Company, Inc. and Vermont Transco, LLC (collectively, VELCO or the Company) petitioned the Commission to approve its assignment of portions of easements located in Claremont, New Hampshire, to Public Service Company of New Hampshire d/b/a Eversource Energy (PSNH or Eversource). Eversource submitted its petition with the pre-filed testimony of Alexandria Fogg, and a proposed Assignment of Easements and Consent to Joint Use document.

On August 23, 2019, Eversource responded to the petition, confirming its agreement with VELCO and supporting the proposed easement transfer. Eversource attached a map showing the location of the easements.

On October 1, 2019, Commission Staff (Staff) recommended approval of the petition. The petition and subsequent docket filings, other than any information for which confidential

treatment is requested of or granted by the Commission, are available on the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2019/19-087.html>.

II. POSITIONS OF THE PARTIES AND STAFF

A. VELCO

Vermont Transco LLC is a limited liability company organized and existing under the laws of Vermont and engaged in the transmission of electric energy within Vermont and New Hampshire. Vermont Electric Power Company, Inc., is a public utility corporation organized and existing under the laws of the State of Vermont and engaged in the management of the transmission of electric energy within Vermont and New Hampshire. Vermont Electric Power Company, Inc., is the manager of Vermont Transco LLC, and manages all of its assets, including its transmission lines and easements located in New Hampshire.

VELCO stated that in 1957-58 it acquired four easements in Claremont, New Hampshire, to form a right-of-way between its Ascutney substation in Weathersfield, Vermont, and a 115 kV transmission line owned by New England Power Company, an affiliate of National Grid, at a connection point in Claremont (the Claremont ROW). According to VELCO, the Claremont ROW is approximately one-mile long and 225-feet wide, sufficient to accommodate two parallel 115 kV transmission lines. VELCO constructed and operates a single 115 kV transmission line on the southern side of the Claremont ROW.

In 1967, VELCO and PSNH agreed, as part of a purchase power agreement, that PSNH would build a second 115 kV transmission line on the northern side of the Claremont ROW. VELCO stated that although a formal assignment of easement rights never occurred, it was agreed in principle at that time that it would assign half of its easement rights in the Claremont ROW to PSNH in exchange for \$4,520.45. PSNH constructed its 115 kV transmission line on the northern side of the Claremont ROW. According to VELCO, the Company and PSNH have

occupied the Claremont ROW “in harmony” since 1967, cooperatively maintaining the right-of-way and their separate lines in a safe and reliable manner.

VELCO stated that the Company and Eversource now wish to formalize the 1967 agreement by assigning half of the Claremont ROW to Eversource in exchange for \$35,000, an amount that the parties agree represents the 1967 price inflated to 2018 dollars. The assignment will be accomplished by apportioning the Claremont ROW into three parallel strips running the length of the right-of-way: the southern strip will be owned by VELCO; the northern strip will be owned by Eversource; and the middle strip will be owned equally by VELCO and Eversource. VELCO stated that the assignment of easements and the Joint Use agreement will enhance Eversource’s ability to safely and reliably serve customers while appropriately compensating the Company and its customers for the value of its assets.

B. Eversource

Eversource agreed with the petition as submitted, and supported the requested relief. Eversource stated that formalizing the prior agreement will allow it and VELCO to continue to provide safe and reliable electric energy transmission services.

C. Staff

Staff recommended that the Commission approve the petition and find that the assignment of easement rights is in the public good. Staff further recommended that the Commission issue an order *nisi* to formalize its approval.

III. COMMISSION ANALYSIS

We have reviewed VELCO’s petition, Eversource’s concurrence, and Staff’s recommendation. As noted by VELCO, the Commission reviews transfers and leases of utility franchises, works, and systems pursuant to a “public good” standard, under RSA 374:30. Unless the Commission approves a transfer or lease pursuant to the public good standard, the transfer or

lease is void as a matter of law. RSA 374:31. We note that VELCO and Eversource agree that the assignment of the easement rights is in the public good, because it would facilitate the utilities' performance of necessary maintenance and upkeep of their respective electric energy transmission infrastructure.

In determining whether a proposed transfer is for the public good, the Commission assesses, among other things, the managerial, financial, and technical expertise of the transferee. *Hampstead Area Water Company, Inc.*, Order No. 26,153 at 4 (June 26, 2018) *see also, e.g., Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, Order No. 25,987 (February 8, 2017).

In examining the divisibility and transferability of easements, the Commission presumes that an easement is divisible and that a portion of an easement is transferable, absent a showing that divisibility is contrary to the terms of the easement deed or that divisibility would overburden the servient estate. *Public Service Co. of N.H. d/b/a Eversource Energy*, Order No. 26,001 at 14-15 (April 6, 2017). Although the Commission lacks jurisdiction to determine individual property rights, the Commission may consider the terms of proposed transfers and the valuation of the affected easement rights to make a determination of public good under RSA 374:30. *Id.*

We give weight to the fact that PSNH has operated and maintained an electric energy transmission line on the Claremont ROW for more than 50 years. We also note that VELCO and Eversource concur in the valuation of the transfer, and that Staff did not object to that valuation as unreasonable.

Based on the specific facts in the record, we agree that the transfer is for the public good, and we approve the assignment of easement rights under RSA 374:30.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, the petition of VELCO for authorization to transfer easement rights to Eversource, as described in the body of this order, is hereby GRANTED; and it is

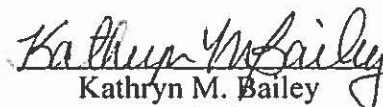
FURTHER ORDERED, that VELCO shall cause a copy of this order *nisi* to be published once in a statewide newspaper of general circulation in those portions of the state where operations are conducted, such publication to be no later than November 8, 2019, and to be documented by affidavit filed with the Commission on or before November 26, 2019; and it is

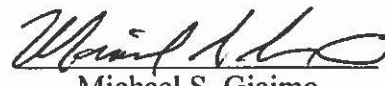
FURTHER ORDERED, that all persons interested in responding to this order *nisi* be notified that they may submit their comments or file a written request for a hearing that states the reason and basis for a hearing no later than November 15, 2019, for the Commission's consideration; and it is

FURTHER ORDERED, that all persons interested in responding to such comments or request for hearing shall do so no later than November 22, 2019; and it is

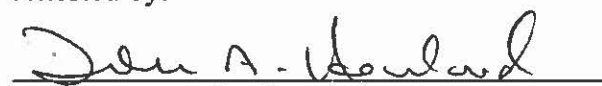
FURTHER ORDERED, that this order *nisi* shall be effective on November 27, 2019, unless VELCO fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of October, 2019.


Kathryn M. Bailey
Commissioner


Michael S. Giaimo
Commissioner

Attested by:


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