

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 20-001

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY**

**Petition for Licenses to Construct and Maintain Electric Lines Over and Across
Pequawket Pond and the Saco River in Conway and
Across Land Owned by the State of New Hampshire in Tamworth, Madison, and Conway**

Order *Nisi* Granting Licenses

ORDER NO. 26,404

September 9, 2020

This order grants Eversource licenses to modify, construct, and maintain an existing electric transmission line over and across Pequawket Pond and the Saco River in Conway, and state-owned land in Tamworth, Madison, and Conway. This order is being issued on a *nisi* basis to ensure that interested persons receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On January 8, 2020, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource, or the Company) filed a petition pursuant to RSA 371:17 for licenses to construct and maintain an existing 115 kilovolt electric transmission line, designated as the Eversource Y138 Line (Y138 Line), over and across Pequawket Pond and the Saco River in Conway, and across parcels of land owned by the State of New Hampshire in Tamworth, Madison, and Conway. Eversource filed a revised replacement petition on March 4, and a supplemental revised replacement petition on August 24. In support of its petition, Eversource submitted an overview map, and plan and profile drawings.

Commission Staff (Staff) recommended that Eversource's petition be granted. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-001.html>.

II. SUMMARY OF PETITION

Eversource is replacing a number of structures along its Y138 Line to meet current and future electricity demand. The Y138 Line crosses Pequawket Pond and the Saco River in Conway, and land owned by the State of New Hampshire in Tamworth, Madison, and Conway. Eversource seeks amended licenses for two public water crossings. The Company also seeks after-the-fact licenses for six crossings over state-owned land in connection with the proposed modification of the line.

The Company will transfer three existing conductors to the new support structures and replace one of the two existing static wires with an optical ground wire (OPGW) communications cable. One structure (Structure 114) will be replaced to address loading requirements due to the OPGW installation.

A. History

The existing crossings across Pequawket Pond and the Saco River were approved by the Commission in Order No. 18,703, issued on July 10, 1987, in Docket DE 87-76. Order No. 18,703 granted Eversource a license to construct and maintain electric transmission lines over and across Pequawket Pond and the Saco River in Conway.

The existing State-owned land portions of the Y138 Line crossings were not previously licensed by the Commission. Eversource now seeks after-the-fact licenses for these crossings in

connection with the construction and maintenance of new structures and cables along the existing lines.

In 1998, Eversource replaced Structures 98 and 129; and between 2017 and 2018, the Company replaced Structures 99 and 128. In December 2019, Eversource replaced Structure 115. Eversource has requested after-the-fact licenses for these replacements.

According to the petition, certain wood structures (Structures 7, 15, and 16) are approximately 26-years old and will be replaced with steel structures as part of the Company's reliability project for the Y138 Line.

B. Crossing Locations and Construction

Tamworth Crossing

The proposed modification in Tamworth will begin at Structure 6 on the west side of the Tamworth town line at the southwest corner of the Madison town line, as shown on Tamworth Tax Map 212, Lot 14. The line will continue in an easterly direction to Structure 7. The new structures will create a 455-foot crossing span between the two structures. The state-owned land portion of the crossing will be 99 feet.

Madison Crossings

The first modification in Madison will begin at Structure 15 on the west side of Kingswood Circle, as depicted on Madison Tax Map 119, Lot 20. The line will continue in a northwesterly direction to Structure 16. The new structures will create a 494.5-foot crossing span. The state-owned land portion of the crossing will be 138 feet.

The second modification will begin at Structure 42 northwest of N.H. Route 113 and just south of the southern tip of Mack Pond, as depicted on Madison Tax Map 111, Lot 2. The line will continue in an easterly direction to Structure 43, just west of the intersection of Forest Pines

Road and Jones Hill Road. The new structures will create a 453-foot crossing span. The state-owned land portion of the crossing will be 109 feet.

The third modification in Madison will begin at Structure 89 north of Tasker Hill Road as depicted on Madison Tax Map 203, Lot 10.1. The line will continue in a northeasterly direction crossing the Conway town line to Structure 90, southeast of the intersection of Mountain View Drive and Brookside Street, as depicted on Conway Tax Map 278, Lot 27.1. The new structures will create an 800.5-foot crossing span. The state-owned land portion of the crossing will be 370 feet.

Conway Crossings

The first proposed modification in Conway will begin at Structure 98 southeast of the intersection of Quint Street and Pequawket Drive in Conway, as depicted on Conway Tax Map 276, Lot 258. The line will continue in a northeasterly direction across Pequawket Pond and Pleasant Street (N.H. Route 153) to Structure 99, as depicted on Conway Tax Map 276, Lot 72. The new structures will create a 505-foot crossing span. The state-owned land portion of the crossing will be 172 feet.

The second modification in Conway will begin at Structure 114 on the eastern bank of the Saco River, northwest of the end of Landrock Road as depicted on Conway Tax Map 265, Lot 207. The line will continue in a northwesterly direction across the Saco River to Structure 115, located on the western bank of the river, northeast of Poliquin Drive. The new structures will create a 700-foot crossing span. The state-owned land portion of the crossing will be 202 feet.

The third modification will begin at Structure 126 just southeast of Kennett High School and west of Eastman Road (U.S. Route 302), as shown on Conway Tax Map 252, Lot 3.1. The

line will continue in a northeasterly direction to Structure 127, located just to the west of Eastman Road, northwest of its intersection with East Conway Road, as shown on Conway Tax Map 219, Lot 211. The new structures will create a 1,740-foot crossing span between Structures 126 and 127. The state-owned land portion of the crossing will extend 77.5 feet and 77 feet on either side of Structure 127.

The final modification in Conway will begin at Structure 127. The line will continue in a northeasterly direction to Structures 128 and 129, located northeast of Eastman Road. The new structures will create a combined 759-foot crossing span between Structures 127 and 129. The State-owned land portion of the crossing will be 106.5 feet on either side of Structure 128.

The line modifications are designed and will be constructed in accordance with the 2017 National Electrical Safety Code (NESC).

C. Regulatory Requirements

A New Hampshire Department of Environmental Services (DES) statutory permit notification (SPN) is required for construction access and work activities that involve temporary minor alteration of nontidal wetlands, nontidal surface waters, and banks adjacent to nontidal surface waters. SPNs have been obtained for work in Madison and Conway.¹ Eversource stated that an SPN is not required for the work to be performed in Tamworth.

According to the petition, DES shoreland permits by notification were obtained for the Pequawket Pond and the Saco River crossings.²

¹ See DES File #2020-00530 and #2020-0556 for work in Madison and Conway, respectively.

² See DES File #2020-01611 and #2020-01608 for the Pequawket Pond and Saco River crossings, respectively.

Eversource stated that the U.S. Army Corps of Engineers (USACE) does not regulate the subject portions of Pequawket Pond or the Saco River as navigable waters. Accordingly, no USACE permits are required.

D. Property Rights

The Y138 Line is an existing line within existing utility easements. Eversource does not anticipate that abutters on either side of Pequawket Pond, the Saco River, or the state-owned land will be affected because the project will entail modification of existing crossings for which the Company holds easement rights.

E. Service to the Public and the Effect on Public Rights

According to Eversource, the existing crossings were constructed and have been operated and maintained to meet the reasonable requirements of service to the public, and the proposed modifications will ensure that the Y138 Line will continue to meet that public need. Eversource stated that the modifications will not substantially affect the public's use and enjoyment of Pequawket Pond, the Saco River, or the identified state-owned land. The Company calculated applicable clearance requirements for the water crossings based on a 100-year flood level, which is a more conservative analysis than the NESC 10-year flood elevation requirement; clearance requirements for the land crossings were based on 2017 NESC requirements. The Company determined that minimum safe line clearances above the river, the shorelines, and state-owned land will be maintained at all times.

III. SUMMARY OF STAFF REVIEW

Staff has reviewed the petition and supporting documentation, applicable statutes, rules, NESC requirements, and land ownership, and assessed the public need, safety, and potential impact of the requested licenses. Staff determined that the proposed construction meets the

requirements of the NESC, applicable state statutes and rules. Based on its review, Staff concluded that the licenses Eversource has requested in this docket may be exercised without substantially affecting public rights in Pequawket Pond or the Saco River in Conway, or the state-owned land parcels in Tamworth, Madison, and Conway. Accordingly, Staff recommended approval of the petition.

IV. COMMISSION ANALYSIS

“Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should 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, it shall petition the commission for a license to construct and maintain the same.” RSA 371:17 (Supp. 2019). The Commission is authorized to grant such a license if it “may be exercised without substantially affecting the public rights in said waters or lands.” RSA 371:20. DES has classified Pequawket Pond and the Saco River as “public waters.”³

Based on the petition and Staff’s recommendation, we find that the proposed crossings are necessary to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17. We further find that the requested licenses may be exercised without substantially affecting public rights in Pequawket Pond, the Saco River in Conway, and state-owned land in Tamworth, Madison, and Conway, as required for approval under RSA 371:20. We therefore approve the petition subject to the conditions contained in the ordering clauses below. We issue

³ See http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm, and <https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

our decision on a *nisi* basis to provide interested persons the opportunity to submit comments or request a hearing.

This approval applies only to the electric lines specified in this docket. Should Eversource seek further modification, it must make the appropriate filing. Eversource is responsible for obtaining any and all federal, state, or local permits required by authorities having jurisdiction for the construction and installation of the proposed crossing.

We also require notice to be provided to the Towns of Conway, Tamworth, and Madison, the Department of Transportation, DES, the Office of the Attorney General, and owners of land bordering the public water crossings.

Finally, we note that the descriptions of the crossings locations in the petition are inadequate. But for the work of Staff in comparing the map provided to published maps of the area, we would be unable to describe the location of each crossing with any detail that would permit public understanding of the line crossing modifications. We expect, and direct, that future petitions will contain a descriptive narrative of each crossing location, so that the crossings can be easily located and the public can be adequately informed.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that, subject to the effective date below, Eversource is authorized, pursuant to RSA 371:17, *et seq.*, to construct, install, operate, and maintain electric lines over and across Pequawket Pond and the Saco River in the Town of Conway, and across land owned by the State of New Hampshire in Tamworth, Madison, and Conway, as described in its petition and depicted in its filings, and as specified in Staff's recommendation; and it is

FURTHER ORDERED, that approval is limited to the construction or alteration of the electric lines specified in this docket, and is conditioned on the requirement that Eversource

construct, operate, maintain, and, if necessary, alter the lines consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Admin. R., Puc 306.01, *et seq.*, as may apply, and as amended from time to time, and all other applicable safety standards in existence at that time; and it is

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

FURTHER ORDERED, that Eversource shall provide a copy of this order to (i) the Town Clerks of Conway, Tamworth, and Madison, New Hampshire; (ii) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of each crossing, as required by RSA 371:19; (iii) the New Hampshire Department of Environmental Services; **and (iv) the New Hampshire Department of Transportation**, by first class mail, no later than September 18, 2020, to be documented by affidavit filed with the Commission on or before October 6, 2020; and it is

FURTHER ORDERED, that Eversource shall cause a copy of this order *nisi* to be published on its website within one business day of this order, such publication to occur no later than September 18, 2020, and to be documented by affidavit filed with the Commission on or before October 6, 2020; and it is

FURTHER ORDERED, that the Executive Director of the Commission shall cause a copy of this order *nisi* to be published on the Commission website within one business day; and it is

FURTHER ORDERED, that persons interested in responding to this order 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 September 23, 2020 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 30, 2020; and it is

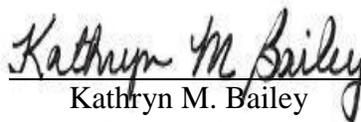
FURTHER ORDERED, that future petitions for license to cross public water or land shall include an adequate description of the location of the crossing that makes it clear to the public where the crossing is located; and it is

FURTHER ORDERED, that this order shall be effective October 9, 2020, unless Eversource fails to satisfy the notice and publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

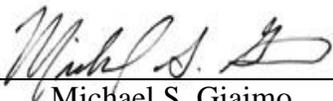
By order of the Public Utilities Commission of New Hampshire this ninth day of September, 2020.



Dianne Martin
Chairwoman

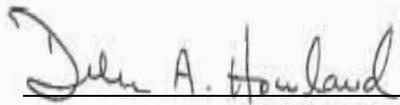


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 20-001

Printed: 9/9/2020

Email Addresses

ExecutiveDirector@puc.nh.gov
richard.chagnon@puc.nh.gov
lynn.fabrizio@puc.nh.gov
tom.frantz@puc.nh.gov
susan.gagne@puc.nh.gov
Paul.Kasper@puc.nh.gov
randy.knepper@puc.nh.gov
catherine.marsellos@puc.nh.gov
Erik.newman@eversource.com
amanda.noonan@puc.nh.gov
ocalitigation@oca.nh.gov