

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 21-048

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

**Petition for License to Construct and Maintain Electric Lines
Over and Across Land Owned by the State of New Hampshire in Londonderry**

Order *Nisi* Granting License

ORDER NO. 26,474

May 4, 2021

This order grants Eversource a license to modify, construct, maintain, and operate electric lines over and across land owned by the State of New Hampshire in Londonderry. This order is being issued on a *nisi* basis to ensure that interested persons receive notice and have an opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On March 15, 2021, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource, or the Company) filed a petition pursuant to RSA 371:17 for a license to modify, construct, operate, and maintain an existing overhead 345 kilovolt (kV) transmission line, designated as the Eversource 326 Line, over and across land owned by the State of New Hampshire in Londonderry. In support of its petition, the Company submitted an overview map of the crossing location, and a plan and profile drawing with structural details of the crossing. On March 17, 2021, Eversource filed replacement petition attachments with corrections to Exhibit 2.

Commission Staff (Staff) recommended that Eversource's petition be granted. The petition and additional 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/2021/21-048.html>.

II. SUMMARY OF REQUEST

Eversource currently operates and maintains an overhead 345 kV transmission line, designated as the Eversource 326 Line (326 Line), which crosses over state land in Londonderry. Specifically, the span between Structures 4 and 5 along the 326 Line crosses over the Londonderry Rail Trail, which is owned by the State of New Hampshire. The Company proposes to replace existing Structure 5 with a newly constructed steel support structure. The three existing conductors and the existing static wire and optical ground wire (OPGW) on the line will be transferred to the new structure. The Company also seeks an after-the-fact license for the 2018 replacement of Structure 4 at the same crossing location.

A. History

The 326 Line was originally constructed in 1970. In 2018, Eversource replaced the then existing Structure 4 with a new steel structure. That replacement was not licensed at the time, due to the Company's oversight in identifying the rail trail corridor as state-owned land. Eversource now seeks a license after-the-fact for the 2018 replacement of Structure 4 and for the proposed replacement of Structure 5 at the same crossing location.

B. Crossing Location and Construction

The 326 Line crosses state-owned land that encompasses a 51.7 foot wide section of the Londonderry Rail Trail corridor in Londonderry, just north of the intersection of Route 28 (Rockingham Road) and Seasons Lane. Eversource requests a license for proposed modifications and rebuilding of the portion of the 326 Line that crosses the rail trail between Structures 4 and 5.

The Company is undertaking a broader maintenance project along the 326 Line that will include the replacement of Structure 5, originally built in 1970 of wood, with two 79-foot steel poles. According to the petition, the steel replacement for Structure 5 will be located within ten feet of the current structure location. Structure 4 was replaced in 2018 with three 88-foot steel poles. The three existing conductors on the 326 Line will be transferred to the new steel Structure 5, and the existing static wire and OPGW cable will be transferred and attached vertically above the conductors. According to Eversource, the conductors, static wire, and OPGW will remain unchanged.

Eversource's rebuild project begins in Londonderry at Structure 4 located northeast of the Londonderry Rail Trail in the area north of the intersection of Route 28 (Rockingham Road) and Seasons Lane. The 326 Line then traverses in a southwesterly direction, crossing over the Londonderry Rail Trail to Structure 5. The crossing span between Structures 4 and 5 totals 445 feet, with 51.7 feet crossing over state-owned land that includes the Londonderry Rail Trail. The state land falls under the jurisdiction of the New Hampshire Department of Transportation (NHDOT).

The line modifications are designed and will be constructed, maintained, and operated in accordance with the 2012 National Electric Safety Code (NESC) standards,¹ which require a height of no less than 32.8 feet to the top of railroad track. Eversource stated that the actual minimum height over the state land parcel exceeds the minimum requirement.

¹ See N.H. Admin. R., Puc 306.01(b)(1) (referencing 2012 NESC).

C. Regulatory Requirements

Eversource stated that it had obtained a New Hampshire Department of Environmental Services (DES) standard dredge and fill permit in conjunction with the 2018 replacement of Structure 4,² but that no environmental permits are required for the replacement of Structure 5.³

D. Property Rights

Eversource noted that the Company owns the land parcels abutting the state-owned property span that is the subject of its petition. In addition, the replacement project will be accomplished within the Company's existing right-of-way easements, thereby mitigating impacts and concerns of property owners affected by the project scope.

E. Service to the Public and Effect on Public Rights

According to Eversource, the existing crossing was constructed and has been operated and maintained to meet the reasonable requirements of service to the public, and the proposed modifications will ensure that the 326 Line will continue to meet that public need. Eversource stated that the modifications will not substantially affect the public's use and enjoyment of the state-owned land in Londonderry.

As noted above, the Company calculated applicable clearance requirements for the land crossing based on NESC requirements. Eversource further stated that the Londonderry Rail Trail will not be utilized for access in support of this project but will be temporarily blocked from use, through appropriate signage, to ensure the safety of the public during the course of the project work.

² DES Permit #2017-3684.

³ Based on the overhead map provided with Staff's Recommendation, Structure 5 is not located proximate to or within wetlands.

III. SUMMARY OF STAFF REVIEW

Staff 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 license. Staff determined that the proposed construction meets the requirements of the NESC and applicable state statutes and rules. Based on its review, Staff concluded that the license requested in this docket may be exercised without substantially affecting public rights in the state-owned land identified as the Londonderry Rail Trail. Accordingly, Staff recommended approval of the Company's 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. 2020). 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.

Based on the petition and Staff's recommendation, we find that the proposed crossing is necessary to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17. We further find that the requested license may be exercised without substantially affecting the public rights in the identified state-owned land in Londonderry, 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 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 lines and structures specified in this docket. Should Eversource seek further modifications, it must make the appropriate filing. Eversource is responsible for obtaining any and all federal, state, and/or local permits required by authorities having jurisdiction for the construction and installation of the proposed crossing.

We require notice to be provided to the Town of Londonderry, DOT, – DES, and the New Hampshire Attorney General.

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, modify, rebuild, install, operate, and maintain electric lines over and across land owned by the State of New Hampshire in Londonderry, as described in its petition filings and as specified in Staff's recommendation, including Staff's map; and it is

FURTHER ORDERED, that approval is limited to the lines and supporting structures under consideration in this docket, and is conditioned on the requirement that Eversource construct, operate, maintain, and, if necessary, alter the lines and supporting structures 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 alterations to the crossing licenses granted herein at least 60 days prior to undertaking any such alterations; and it is

FURTHER ORDERED, that Eversource shall provide a copy of this order to: (i) the Town Clerk of Londonderry, New Hampshire; (ii) the New Hampshire Department of Transportation; (iii) the New Hampshire Department of Environmental Services; and (iv) the New Hampshire Attorney General, as required by RSA 371:19, by first class mail, no later than May 12, 2021, to be documented by affidavit filed with the Commission on or before May 25, 2021; 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 be documented by affidavit filed with the Commission on or before May 25, 2021; and it is

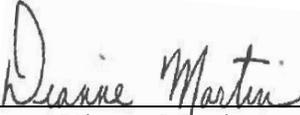
FURTHER ORDERED, that the Executive Director of the Commission shall cause a copy of this order *nisi* to be published on the Commission's website within one business day; and it is

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 May 21, 2021, for the Commission's consideration; and it is

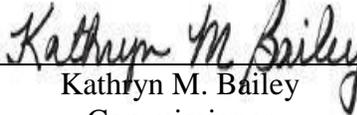
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than May 26, 2021; and it is

FURTHER ORDERED, that this order shall be effective May 28, 2021, 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 fourth day of May,
2021.

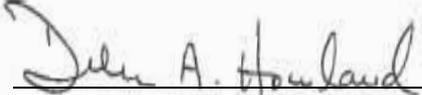


Dianne Martin
Chairwoman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket# : 21-048

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