

STATE OF NEW HAMPSHIRE  
BEFORE THE PUBLIC UTILITIES COMMISSION

**Docket No. DE 24-087**

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

Petition for Exemption from Town of Bethlehem Zoning Ordinance, Art. II, Part D, under RSA  
674:30, III

**NEW HAMPSHIRE DEPARTMENT OF ENERGY REPLY TO EVERSOURCE’S SUR-  
REPLY TO PARTIES’ OBJECTION AND REPLIES TO MOTION FOR  
CLARIFICATION OF SCOPE OF PROCEEDING**

NOW COMES New Hampshire Department of Energy (“Department” or “DOE”), pursuant to Puc 203.07, and hereby offers this Reply to Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or “Company”)’s Sur-Reply to the Parties’ Objection and Replies to Eversource’s Motion for Clarification of Scope of Proceeding (“Sur-Reply”). In Eversource’s Sur-Reply, Eversource argues that a “narrower reading of the statutory language is most appropriate, especially in the context of the proposed *rebuild* of an *existing* structure rather than the *siting* of a *new* structure in a *new* location in the Town.” Sur-Reply p. 2. Eversource provides no authority for this proposition that a narrower interpretation is appropriate. The DOE agrees that the situations in *Appeal of Milford Water Works*, 126 N.H. 127 (1985) and PUC decisions cited by Eversource are different than what is presently before the PUC. However, this does not allow Eversource to deviate from the statute’s plain meaning.

In Eversource’s Sur-Reply it argues that in Order 26,946 the “Commission confirmed that it would be ‘futile’ for it to review transmission rates approved by the Federal Energy Regulatory Commission (“FERC”), and any underlying determinations of prudence regarding transmission infrastructure investments, because ‘New Hampshire law is inapplicable to these

rates.”<sup>1</sup> Sur Reply p.3. In the prior Order in which the PUC initially declined to investigate and denied the petition, it wrote that it has “discretion” to initiate an investigation and that the Commission “appreciates the issues raised . . . .” and noted that “transmission costs are a major contributor to New Hampshire ratepayers’ high energy costs. . . . [T]he Commission agrees that expenditures on Asset Condition projects-to the extent they related to transmission costs-*are a potentially worthy topic for the Commission to consider.*” Order No. 26,925 in DE 23-056, p. 8 (emphasis added). Leading to its decision, the Commission found that there were no laws on point that required them to investigate as advocated by the petitioner. But, nevertheless, the Commission did agree that there could be circumstances where an investigation of asset condition projects could be warranted.

The DOE would argue that its interpretation is the one that should guide the Commission as it follows the plain text of the statute. The DOE also wants to reiterate that it in its Objection it argued that the *Milford Water Works* decision does not supplant RSA 674:30, III. The DOE agrees with the OCA that the statute governs and that the seven factors recognized in *Milford Water Works* are not exclusive or exhaustive. The Commission is not limited to only reviewing the height of the project because the statute allows the Commission to consider the “proposed situation” of the hundred structures proposed for replacement. RSA 674:30, III. The situation

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<sup>1</sup> The Commission as cited by Eversource was saying in Order 26,946 that there is no law which requires the Commission to review transmission rates or the prudence of investments in transmission infrastructure. “In sum, the Petitioner has not shown that the Commission was compelled to open a separate investigative docket to review all of Eversource’s asset condition projects and ensure they were prudent.” Order 26,946, p. 7. In this proceeding, the Commission is not reviewing transmission rates or determining the prudence of the x-178 line. Instead, the Commission is being requested by Eversource to waive a local zoning ordinance pursuant to RSA 674:30, III, to rebuild one hundred structures in Bethlehem. The law that Eversource invokes, RSA 674:30, III requires the Commission to consider the situation in deciding whether a waiver is appropriate.

The language Eversource cited to is as follows in the Order: “In short, no statute requires the Commission to ensure FERC-approved transmission rates, and any underlying determinations as to the prudence of investments in transmission infrastructure, are consistent with New Hampshire law and doing so would be futile because New Hampshire law is inapplicable to these rates.” Order 26,946, p. 7.

does not just encompass the height, but involves the substantial expansion of an existing use that includes larger structures, different materials and modern telecommunications proposed for the rebuild, as well as environmental impacts, the cost of the proposed replacements, and alternative solutions.

Dated: October 31, 2024

Respectfully submitted,

**New Hampshire Department of Energy**

By its Attorney,

*/s/ Molly M. Lynch*

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**Certificate of Service**

I hereby certify that a copy of this pleading was provided via electronic mail to the individuals included in the Commission's service list for this docket on this date, October 31, 2024.

*/s/ Molly M. Lynch*

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