

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

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**

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On June 21, 2024, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) filed a petition pursuant to RSA 674:30, III for an exemption from a provision in the Town of Bethlehem (Bethlehem) Zoning Ordinance (Ordinance). Eversource requests the exemption because it seeks to replace existing wooden poles within two of its transmission lines that run partly through Bethlehem with steel poles that exceed a town-wide 40-foot height limitation on all buildings and structures. All docket filings, other than any information subject to confidential treatment, are available on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2024/24-087.html>.

I. BACKGROUND AND PROCEDURAL HISTORY

Eversource's petition and supporting documents stated the following facts. Two of Eversource's transmission lines run partly through Bethlehem. The first, referred to as X178, was constructed in the 1950s and was reconstructed in 1969. It runs for approximately 7.34 miles in Bethlehem within a 265-foot-wide right-of-way. The Bethlehem portion of the X178 line contains 95 wooden H-Frame structures or poles. The second transmission line, referred to as U199, was constructed in 1971. The Bethlehem portion of the U199 line contains 5 wooden H-Frame structures or poles.

All of the 100 wooden H-Frame structures exceed a 40-foot height limitation imposed by Article II, Part D of the Ordinance.

Eversource determined that many of the existing wooden structures comprising the X178 and U199 lines need to be replaced due to their age, woodpecker damage, insect damage, and pole rot. Rather than replace or repair individual poles on an ongoing basis, Eversource has proposed replacing all of the existing wooden structures in these lines with steel H-frame structures or poles on the grounds that doing so will ultimately reduce the time and resources necessary to maintain the structures. In addition, Eversource represented that doing so would limit interruptions to service and disruptions to abutters and local communities caused by ongoing repairs of the existing structures. Eversource further represented that updates to the National Electric Safety Code Standards adopted since the U199 and X178 lines were originally constructed require all the proposed steel replacement structures to be taller than the existing wooden ones.

As the replacement steel poles would violate the height provision in the Ordinance, Eversource applied to the Bethlehem Planning Board for a waiver pursuant to RSA 674:30, I. After holding a hearing on Eversource's application, the Bethlehem Planning Board denied Eversource's request to waive the height restriction.

Eversource now petitions the Commission to exempt it from operation of the Ordinance pursuant to RSA 674:30, III. The Commission, "following a public hearing, may grant such an exemption if it decides that the present or proposed situation of the structure in question is reasonably necessary for the convenience or welfare of the public" *Id.*

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether Eversource's proposal to replace the existing wooden transmission poles in Bethlehem with steel poles that are greater than 40-feet in height is "reasonably necessary for the convenience or welfare of the public" under RSA 674:30, III; and, if so, whether the Commission should grant an exemption from the Ordinance. Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 674:30, III, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 16, 2024, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc

203.15. We assign Attorney Ben Martin-McDonough, a Senior Advisor to the Commission, to serve as an examiner for the prehearing conference, to report the facts, and to make recommendations to the Commission, including regarding any issues raised during the conference that need to be addressed. Any party may request that this prehearing conference be held “by the full commission, or a majority thereof” so long as that request is made at least 5 days before the date of the conference. RSA 363:17; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission’s calendar; and it is

FURTHER ORDERED, that, in lieu of the scheduled prehearing conference, the parties, and any intervenors, may submit a joint filing with: (1) a procedural schedule containing a discovery schedule, if appropriate, and proposed hearing dates; and (2) a request that the Commission cancel the prehearing conference. This filing should be submitted no later than September 12, 2024; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, Eversource shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to Eversource and any other parties on the service list, on or before September 6, 2024. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before September 12, 2024; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is


FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written

pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

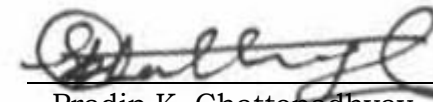
FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Eversource shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue. In addition, Eversource shall send a copy of this order to the Town of Bethlehem by certified first-class U.S. mail no later than two days after the date of issue. Eversource shall document both forms of notice by affidavit filed with the Commission on or before September 6, 2024. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this twentieth day of August, 2024.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket#: 24-087

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