

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-148

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY**

**Petition for License to Construct and Maintain Electric Lines
Over and Across the Merrimack River between Bedford and Manchester and
Across Land Owned by State of New Hampshire in Bedford**

Order *Nisi* Granting License

ORDER NO. 26,328

January 22, 2020

This order grants Eversource a license to modify, construct, and maintain an overhead 34.5 kV electric distribution line over and across the Merrimack River between Bedford and Manchester, New Hampshire, and over and across State-owned land in Bedford. This order is being issued on a *nisi* basis to ensure that all interested persons receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On September 12, 2019, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) filed a petition pursuant to RSA 371:17, requesting a license to modify, construct, and maintain an overhead 34.5 kV electric distribution line over the Merrimack River between the Town of Bedford and the City of Manchester, and over and across land owned by the State of New Hampshire in Bedford. In support of its petition, Eversource submitted a locational drawing of the crossing (Exhibit 1), plan and profile drawings (Exhibit 2), and two construction drawings of the new pole structures (Exhibit 3).

Commission Staff (Staff) recommended that the Commission grant Eversource's petition. 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/2019/19-148.html>.

II. SUMMARY OF PETITION

Eversource seeks a license to modify, construct, and maintain an existing distribution line, designated as the Eversource 324 Line (324 Line), which crosses the public waters of the Merrimack River and a parcel of State-owned land on the western side of the river. The 324 Line crosses the Merrimack River between Structure 39 in Bedford and Structure 40 in Manchester. The parcel of land owned by the State is located between the western shore of the Merrimack River and a privately-owned railroad bed located on the western shore of the Merrimack River situated east and north of Iron Horse Drive in Bedford. The State acquired the parcel in 1996, subject to the existing Eversource right of way. The parcel is recorded as Lot 15 on Tax Map 35 in the Town of Bedford.

Eversource intends to modify the 324 Line at the crossing location as part of an ongoing maintenance project to meet current and future electricity demands. Structure 39 is constructed of wood and will be replaced with a steel structure to ensure that the 324 Line continues to function safely and reliably. The existing conductors and wires will be transferred to the new steel structure. The original Structure 40 was replaced by a steel structure in 2017. A license for the 2017 replacement was not requested at that time. Eversource now seeks approval for that portion of the crossing.

A. History

The existing river crossing was approved by the Commission in Order No. 12,219, issued on April 21, 1976, in Docket DE 76-22. That Order granted Eversource a license to maintain an existing electric distribution line over and across the Merrimack River. The crossing over

State-owned land at this location was not previously licensed as the land was in private ownership when the 324 Line was originally constructed.

B. Crossing Location and Construction

Eversource requests a license for the modification of the existing line crossing, beginning at Structure 39 on the west side of the Merrimack River in Bedford and continuing in an easterly direction to Structure 40 in Manchester on the east side of the river. The line crossing the Merrimack River will span approximately 750 feet between the two structures. The line will span approximately 125 feet over the State-owned land parcel in Bedford. The line modification is 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) Shoreland Permit by Notification is required for construction activities in the vicinity of the Merrimack River. Eversource stated in its petition that it will submit the required permit application prior to construction.

According to the petition, the U.S. Army Corps of Engineers (USACE) regulates the subject portion of the Merrimack River as a federally-designated navigable water. Eversource stated that it had consulted with the USACE and was advised that when wire and cable clearances are increased over those already in place, no USACE permit modifications are required. The proposed crossing modifications will raise the 324 Line within the existing corridor.

D. Property Rights

Based on the petition, Eversource does not anticipate that abutters on either side of the Merrimack River or the State-owned land at the location of the crossing will be affected by the

proposed project because the work will consist of a modification of an existing crossing for which Eversource has easement rights.

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

As stated in the Petition, the existing crossing was constructed, operated, and maintained to meet the reasonable requirements of service to the public. The modified crossing will continue to meet that public need. Modification of the existing line will not substantially affect the public's use and enjoyment of the Merrimack River or the State-owned land parcel at the crossing location. Minimum safe line clearances above the river and its shorelines and over State-owned land will be maintained at all times. Furthermore, Eversource calculated the crossing clearance requirement based on a 100-year flood level, a more conservative analysis than the NESC 10-year flood clearance requirement.

III. SUMMARY OF STAFF REVIEW

Commission Staff reviewed the petition and supporting documentation, applicable statutes, rules, NESC requirements, and land ownership information, as well as public need, safety, and impact. Based on its review, Staff determined that the proposed construction meets the requirements of the NESC and applicable state statutes and rules, and 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. 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 the Merrimack River as a “public water.”¹

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 public rights in the Merrimack River or the State-owned land at the crossing location, as required for approval under RSA 371:20. Therefore, we approve the petition subject to the conditions contained in the ordering clauses below.

We issue our decision on a *nisi* basis to provide any interested person the opportunity to submit comments or request a hearing.

This approval is only for electric lines with the specifications proposed 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 require notice to be provided to the Town of Bedford, the City of Manchester, and the New Hampshire Department of Environmental Services, and, pursuant to RSA 371:19, to the Office of the Attorney General and owners of land bordering the river crossing.

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 the Merrimack River as described in its petition and depicted in its filings and as specified in Staff’s recommendation; and it is

¹ 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>.

FURTHER ORDERED, that approval is limited to the construction or modification of the electric lines and structures under consideration 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. Code Admin. Rules Puc 306, *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 modification to the crossing license granted herein at least 60 days prior to undertaking any such modification; and it is

FURTHER ORDERED, that Eversource shall provide a copy of this order to: (i) the Town and City Clerks of Bedford and Manchester, New Hampshire, respectively; (ii) the New Hampshire Attorney General and all owners of the land bordering on the public waters at the location of the crossing, as required by RSA 371:19; and (iii) the New Hampshire Department of Environmental Services, by first class mail, no later than February 3, 2020, to be documented by affidavit filed with the Commission on or before February 19, 2020; and it is

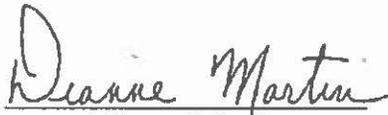
FURTHER ORDERED, that Eversource shall cause a summary of this order, issued concurrently with this order, to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to occur no later than February 3, 2020, and to be documented by affidavit filed with the Commission on or before February 19, 2020; 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 February 10, 2020, for the Commission's consideration; and it is

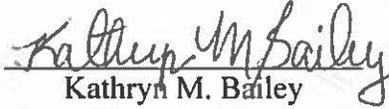
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than February 18, 2020; and it is

FURTHER ORDERED, that this order shall be effective February 24, 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 twenty-second day of January, 2020.



Dianne Martin
Chairwoman

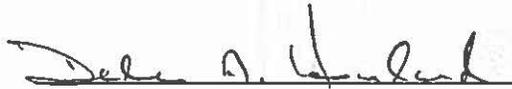


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

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