

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 15-272

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

**Petition for License to Cross the Merrimack River in the
Towns of Litchfield and Merrimack**

Order *Nisi* Granting License

ORDER NO. 25,841

November 17, 2015

In this order *nisi*, we grant the request of Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) for a license to reconstruct and maintain a 34.5 kV electric distribution line and associated facilities above and across the Merrimack River in Litchfield and Merrimack. This order is being issued on a *nisi* basis to ensure that all interested parties receive notice of the Commission's order and have the opportunity to comment or request a hearing prior to the date set forth for comment in the ordering clauses below.

I. INTRODUCTION

On July 7, 2015, Eversource filed a petition pursuant to RSA 371:17 to reconstruct and maintain an electric distribution line over and across the public waters of the Merrimack River between Litchfield and Merrimack. The petition involves a 34.5 kV electric distribution line known as the "3750 Line" currently operated and maintained by Eversource, which Eversource states is an integral part of its distribution system in the area and needs to be rebuilt to satisfy new minimum clearance requirements that the U.S. Army Corps of Engineers (USACE) implemented in 2012. Eversource filed a map and drawings that illustrate the crossing.

The proposed crossing is at the same location as the existing crossing, for which the Commission granted a license in *Public Service Co. of N.H.*, 62 NH PUC 263 (Oct. 7, 1977). The Commission also granted licenses for lines that are adjacent to the 3750 Line in Order No. 25,333 (Mar. 8, 2012) (the H123 and K165 circuits), and Order No. 25,190 (Jan. 7, 2011) (the 380 circuit).

On October 14, 2015, Commission Staff recommended that the license be granted. The petition, its attachments, Staff's recommendation, and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2015/15-272.html>.

II. SUMMARY OF PETITION

A. *Crossing Location and Construction*

The proposed crossing is in Litchfield and Merrimack, approximately five miles upstream from the Route 111-A bridge over the Merrimack River. Eversource proposes to rebuild the crossing by installing a new wooden structure on each side of the Merrimack River at the same location as the existing crossing. According to Eversource, new USACE minimum clearance regulations require the lines to cross higher above the river. The span of the new crossing will be approximately 736 feet.

According to Eversource, the crossing is "integral" to Eversource's distribution system in the Litchfield and Merrimack areas. Eversource states that the crossing satisfies RSA 371:17, which requires crossings to be "necessary ... to meet the reasonable requirements of service to the public."

Eversource believes the design of the proposed reconstruction demonstrates that the material, height, and location of the support structures, the conductor sizes and materials, and the conductor clearance over the public waters will comply with applicable requirements of the National Electrical Safety Code (NESC) and the new USACE minimum clearance requirements. Eversource filed attachments with its petition showing the technical and design information and proposed construction of the line crossings. Those documents describe the configuration of the proposed crossing, the clearance and sag requirements, and show that sag and tension calculations were done pursuant to applicable NESC requirements.

B. Regulatory Requirements

According to Eversource shorelines will not be affected by this project so permits from the New Hampshire Department of Environmental Services (NHDES) are not necessary.

C. Property Rights

The petition indicates that the new structure on the Litchfield side of the river is within an existing easement owned by Eversource, and that the new structure on the Merrimack side of the river is within property owned by Eversource.

D. Public Interest

According to the petition, the proposed reconstruction and line crossing will not substantially affect the rights of the public in the public waters of the Merrimack River. The petition also states that minimum safe clearances above the water surface and affected shorelines will be maintained at all times and that the use and enjoyment by the public of the Merrimack River will not be diminished in any material respect as a result of the overhead line crossings.

III. SUMMARY OF STAFF REVIEW

According to Staff, the proposed specifications related to the design and reconstruction of this crossing project conform to the applicable sections of the NESC, and that Eversource may exercise the requested license without substantially affecting the rights of the public in the Merrimack River. Staff recommended approval of Eversource's petition. *See* Staff Memorandum dated October 14, 2015.

IV. COMMISSION ANALYSIS

RSA 371:17, which governs the licensing of water crossings, requires utilities to petition the Commission for permission to construct and maintain cable, conduit or poles, and associated wires and fixtures over, under, or across any public waters of the state, whenever such facilities are necessary to meet the reasonable requirements of service to the public. As defined in RSA 371:17, "public waters" include all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe. The NHDES is assigned responsibility under RSA 271:20 for preparing, maintaining, and publishing an official list of all public waters in the state, which can be found at http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm. The Merrimack River is included in the official list.

Based on the information presented in Eversource's petition and Staff's recommendation, we find that the proposed crossing is necessary for Eversource to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17. We find that the requested license may be exercised without substantially affecting the public rights in the affected public waters, as required for approval under RSA 371:20. We also find that the crossing is in the public good. We therefore approve the petition subject to the conditions

contained in the ordering clauses set out below related to ensuring the safe construction, operation, and maintenance of the proposed crossing. We issue our decision on a *nisi* basis to provide any interested person the opportunity to submit comments on Eversource's petition or to request a hearing.

Eversource is responsible for obtaining any and all other permits for the construction and installation of the proposed crossing from any federal, state, and local authorities having jurisdiction. Our approval is only for the electric lines proposed by Eversource in this docket. In addition, because the NHDES is responsible by statute for maintaining the official list of public waters, and given New Hampshire Department of Transportation's (NHDOT) oversight of tall structures over open water, we require that notice of the proposed alterations be sent to NHDES and NHDOT. We also require that notice of the crossing be sent to the Towns of Litchfield and Merrimack. Finally, because the Merrimack River crossing was initiated because of a new requirement by the USACE, we direct Eversource to send notice of the crossing to the USACE.

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 and other lines over and across the public waters described in its petition and depicted in its filings; and it is

FURTHER ORDERED, that this approval is limited to the construction or alteration of electrical lines under consideration in this docket, and it is conditioned on the requirement that Eversource constructs, installs, operates, maintains and, if applicable, alters the lines consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Code Admin. Rules Puc 306.01, as may be applicable, 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 license granted herein at least 60 days prior to any such alteration(s); and it is

FURTHER ORDERED, that Eversource shall maintain proper clearances for its lines and cables at all times across the entire span pursuant to NESC 232B and 235C; and it is

FURTHER ORDERED, that Eversource shall file copies of all permits or agreements, if any, required by the New Hampshire Department of Environmental Services, the New Hampshire Department of Transportation, the United States Army Corps of Engineers, and any other federal, state, or local authorities, and any of the affected municipalities, for the crossings; and it is

FURTHER ORDERED, that Eversource shall provide a copy of this Order *Nisi* to the (i) Town Clerks of Litchfield and Merrimack, New Hampshire; (ii) the New Hampshire Attorney General and the owners of the land bordering on said public waters at the locations of the crossings, pursuant to RSA 371:19; (iii) the New Hampshire Department of Environmental Services; (iv) the U.S. Army Corps of Engineers; and (v) pursuant to RSA 422-B:13, the New Hampshire Department of Transportation and the Office of Secretary, U.S. Department of Commerce, by first class mail, no later than November 27, 2015, and to be documented by affidavit filed with this office on or before December 14, 2015; and it is


FURTHER ORDERED, that Eversource shall cause a summary of this Order *Nisi*, 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 be no later than November 27, 2015, and to be documented by affidavit filed with this office on or before December 14, 2015; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than December 3, 2015, 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 December 10, 2015; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective December 17, 2015, unless Eversource fails to satisfy the publication obligation 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 seventeenth day of November, 2015.



Martin P. Honigberg
Chairman

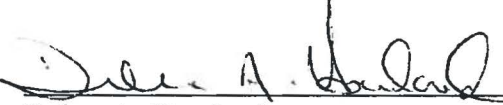


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

