

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-028

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

**Petition For Licenses to Construct and Maintain Electric Lines
Over and Across the Merrimack River between Merrimack and Litchfield and
Land Owned by the State of New Hampshire in Litchfield**

Order *Nisi* Granting Licenses

ORDER NO. 26,290

September 4, 2019

This order grants Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) licenses to construct and modify an existing transmission line over and across the public waters of the Merrimack River between the towns of Merrimack and Litchfield, and across land owned by the State of New Hampshire in Litchfield. This order is being issued on a *nisi* basis to ensure that interested persons receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On February 8, 2019, Eversource filed a petition, pursuant to RSA 371:17, requesting licenses to construct and maintain a 115 kV overhead electric transmission line over and across the Merrimack River between the towns of Merrimack and Litchfield, and across land owned by the State of New Hampshire in the town of Litchfield. In support of its petition, Eversource submitted an overview map showing the location of the line, and a plan and a profile drawing for each crossing. On August 27, 2019, Eversource submitted a corrected overview map.

Commission Staff (Staff) recommended that Eversource's petition be granted. 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 <http://www.puc.state.nh.us/Regulatory/Docketbk/2019/19-028.html>.

II. SUMMARY OF PETITION

Eversource seeks licenses to cross public water and state land in order to modify an existing transmission line as part of a reliability project to continue to meet current and future electricity needs. Specifically, Eversource's overhead 115 kV electric transmission line, designated as the H123 Line, crosses the Merrimack River between Merrimack and Litchfield, and runs over and across land owned by the State of New Hampshire in Litchfield. The current structures are approximately 52-years old and require replacement or modification for the H123 Line to continue to function safely and reliably. The existing H123 Line conductors will not be replaced at this time, only the specified structures.

A. History

The existing river crossing was approved by the Commission in *Public Service Company of New Hampshire*, Order No. 12,219 (March 12, 1976). The replacement structures for the H123 Line over and across the State's land will be newly licensed under Eversource's petition because this parcel was in private ownership when the line was originally constructed and no Commission license was required at that time.

B. Crossing Location and Construction

The proposed modification of the crossing over the Merrimack River begins at Structure #155 in Merrimack on the northwest side of the river and continues in a southeasterly direction to Structure #156 in Litchfield. The total span from Structure #155 to Structure #156 is

approximately 705 feet. In addition, four structures will be replaced off Carlisle Drive in Litchfield, from Structure #181 through Structure #184. While four structures are associated with the crossing over state-owned land in Litchfield, only Structures #182 and #183 are located on state land. Conductors from Structures #181 through #184 cross approximately 867 feet within the state parcel. Eversource stated that the replacement crossings have been designed and will be constructed in accordance with the National Electrical Safety Code (NESC).

C. Regulatory Requirements

A Shoreland Permit by Notification application is required for construction activities in the vicinity of the Merrimack River. The Permit by Notification application (File #2018-03547) was approved by the New Hampshire Department of Environmental Services (NHDES) on November 26, 2018.

A Wetlands Permit from the NHDES is also required. An application was submitted to NHDES on November 15, 2018, and was approved. (NHDES File #2018-03478). In addition, a copy of the Wetlands Permit application was sent to the United States Army Corps of Engineers (USACE) for review on November 15, 2018. Eversource stated in its petition that no permits or permit modifications are required by the USACE.

D. Property Rights

Eversource does not anticipate that the abutters to either the Merrimack River or the state-owned land crossing will be affected because these are modifications of existing crossings and because the pole structures will remain in the existing transmission right-of-way.

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

According to Eversource's petition, the existing crossings were constructed, operated, and maintained to meet the reasonable requirements of service to the public and the

modifications will continue to meet that public need. Modifications of the existing line will not substantially affect the public's use and enjoyment of the Merrimack River or the state's land. Minimum safe-line clearances above the river and the shorelines, as well as over state-owned land, will be maintained at all times. See Staff recommendation at 2-4. Furthermore, Eversource calculated its clearance requirement over the river using the 100-year flood level, a more conservative analysis than the NESC 10-year flood elevation requirement. *Id.*

III. SUMMARY OF STAFF REVIEW

Staff reviewed the petition and supporting documentation, applicable statutes, rules, NESC requirements, and land ownership, as well as public need, safety, and impact. Staff determined that the proposed construction meets the requirements of the NESC, applicable state statutes, and rules. Staff 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. The New Hampshire Department of Environmental Services has classified the Merrimack River as a “public water.”¹

¹ See http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm; <https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

Based on the petition and Staff's recommendation, we find that the proposed crossings are 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 Merrimack River, or land owned by the state in Litchfield, 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 interested persons the opportunity to submit comments or request a hearing.

This approval is only for the electric line, conductors, and structures on or crossing public water and state land for which the Commission is granting a license, with the specifications proposed in 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 also require notice to be provided to the Towns of Merrimack and Litchfield, the New Hampshire Department of Environmental Services, and the United States Army Corps of Engineers. In addition, we require notice to be provided to the Office of the Attorney General and owners of land bordering the river crossing, pursuant to RSA 371:19.

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 between Merrimack and Litchfield, and across state-owned land in Litchfield, as described in its petition and depicted in its filings and as specified in Staff's recommendation; and it is

FURTHER ORDERED, that approval is limited to the construction or alteration 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 alteration(s) to the crossing licenses granted herein at least 60 days prior to undertaking any such alteration(s); and it is

FURTHER ORDERED, that Eversource shall provide a copy of this order to (i) the Town Clerks of Merrimack, New Hampshire and Litchfield, New Hampshire; (ii) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the river crossing, as required by RSA 371:19; (iii) the U.S. Army Corps of Engineers; and (iv) the New Hampshire Department of Environmental Services, by first class mail, no later than September 16, 2019, to be documented by affidavit filed with the Commission on or before September 30, 2019; 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 September 16, 2019, and to be documented by affidavit filed with the Commission on or before September 30, 2019; and it is

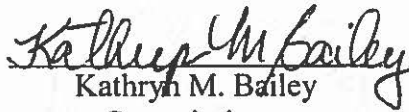
FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing that states the

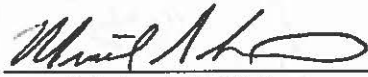
reason and basis for a hearing no later than September 23, 2019, for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than September 30, 2019; and it is

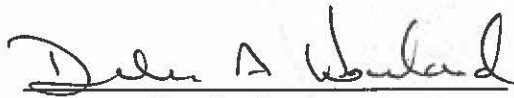
FURTHER ORDERED, that this order shall be effective October 4, 2019, unless Eversource fails to satisfy the notice and publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this fourth day of September, 2019.


Kathryn M. Bailey
Commissioner


Michael S. Giaimo
Commissioner

Attested by:


Debra A. Howland
Executive Director

Executive.Director@puc.nh.gov

amanda.noonan@puc.nh.gov

ocalitigation@oca.nh.gov

paul.dexter@puc.nh.gov

Paul.Kasper@puc.nh.gov

randy.knepper@puc.nh.gov

richard.chagnon@puc.nh.gov

robert.bersak@eversource.com

tom.frantz@puc.nh.gov