

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-109

VERMONT TRANSCO LLC

**Petition for License to Construct and Maintain Fiber Optic Cable
Across the Connecticut River and Sugar River in the City of Claremont**

Order *Nisi* Granting Licenses

ORDER NO. 26,293

September 16, 2019

This order grants Vermont Transco LLC (VT Transco or the Company) a license to construct and maintain a fiber optic cable over and across the public waters of the Connecticut and Sugar Rivers in Claremont, New Hampshire. 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 it becomes effective.

I. PROCEDURAL HISTORY

On June 11, 2019, VT Transco requested a license pursuant to RSA 371:17 to construct and maintain a new all dielectric self-supporting (ADSS) aerial communications fiber optic cable over and across the Connecticut River and the Sugar River in Claremont, New Hampshire. The Company filed an additional exhibit on August 13, 2019. For each crossing, VT Transco submitted maps along with plan and profile view drawings. It also provided copies of easements, an affidavit from its Senior Civil Engineer, and a letter of permission from the U.S. Army Corp. of Engineers.

On August 28, 2019, Commission Staff (Staff) recommended that the license 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 available on the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2019/19-109.html>.

II. SUMMARY OF PETITION

VT Transco plans to construct and maintain a fiber optic communications cable to provide improved support of its K149 electric transmission line. According to the petition, installing a fiber optic cable will allow for improved communication between electrical transmission and distribution facilities, and for increased capacity to manage energy resources, including an increasing number of new renewable generation facilities in New England.

The Company proposes to have the cable cross the Connecticut River between Weathersfield, Vermont, and Claremont, New Hampshire, and the Sugar River in Claremont. A set of four structures currently support the Company's K149 electric line and will serve as attachment points for the proposed fiber optic cable. Structure #14 and Structure #15 will support the Connecticut River crossing, and Structure #19 and Structure #20 will support the Sugar River crossing. According to the petition, Structure #15 is scheduled to be replaced; the proposed clearance and span references reflect design conditions after its replacement.

A. History

Staff did not find any electric crossings at these locations that were previously licensed by the Commission. The attachments to VT Transco's petition indicate that the K149 electric crossing was in place on or about 1958, after RSA 371:17 became effective.

B. Crossing Location and Construction

The Company's proposed addition of ADSS fiber optic cable would begin at VT Transco's Ascutney Substation located in Weathersfield, Vermont, and runs parallel to the Company's existing K149 Transmission Line to an existing Green Mountain Power Sub-Transmission Line located in Claremont. The proposed river crossings will be entirely

aerial, with the fiber optic cable strung below the existing conductors. The Company states that the crossings were designed and will be constructed, maintained, and operated, in accordance with the 2017 National Electrical Safety Code (NESC).

The proposed Connecticut River crossing is located south of N.H. Route 12 and east of Connecticut River Road (U.S. Route 5). The span between Structure #14 and Structure #15 is approximately 1,650 feet. Structure #14 is on the Vermont-side of the Connecticut River and is a double cross-braced 105-foot-tall chromoated copper arsenate (CCA) pole. Structure #15 is on the New Hampshire-side of the Connecticut River and is a double cross-braced 100-foot-tall CCA pole. The Company provided sufficient detail to show how all required clearances from the cable to the surface of the water will be maintained at 23.2 feet.

The proposed Sugar River crossing is located east of Jarvis Hill Road (N.H. Route 12) and west of Main Street (N.H. Route 103) in Claremont. The distance between Structure #19 and Structure #20 is approximately 733 feet. Structure #19 is on the western side of the Sugar River and is a single 70-foot-tall cross-braced CCA pole. Structure #20 is on the eastern side of Sugar River and is an 80-foot-tall double cross-braced CCA pole.

C. Property Rights

VT Transco's ownership of the K149 Transmission Line along the route where the project is proposed is by virtue of four separate easements granted to Vermont Electric Power Company, Inc. (VELCO) which, through a corporate reorganization in 2006, were transferred to VT Transco. The petition states that all of the property rights necessary to construct and maintain the fiber optic cable are consistent with the easement rights already held by VT Transco.

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

According to the petition, the proposed project will be constructed, operated, and maintained to meet the reasonable requirements of service to the public. The petition asserts that the use and enjoyment by the public of the Connecticut and Sugar Rivers will not be diminished in any material respect as a result of the project, except for the brief period of time when the fiber optic cable is installed. Minimum safe line clearances above the rivers and the shorelines will be maintained at all times. Furthermore, VT Transco calculated its clearance requirement using the 100-year flood level, a more conservative analysis than the NESC 10-year flood elevation requirement.

III. SUMMARY OF STAFF REVIEW

Staff reviewed the petition, and determined that the proposed construction meets NESC requirements as well as applicable state statutes and rules, and recommended approval of the petition. Of note, Staff concurrently recommended that the Commission require VT Transco to file a petition for a license to operate and maintain the K149 Transmission Line (K149), across the public waters of the Connecticut River and the Sugar River in Claremont, New Hampshire.

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 Connecticut River and the Sugar River as “public waters.”¹

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 Connecticut and Sugar Rivers, 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 an aerial fiber optic cable with the specifications proposed in this docket. Should VT Transco seek further modification, it must make the appropriate filing. VT Transco 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.

Further, unless VT Transco can produce licenses, we require the Company to promptly file a petition for licenses to operate and maintain the K149 Transmission Line, across the public waters of the Connecticut River and the Sugar River in Claremont, New Hampshire.

Finally, we also require notice to be provided to the City of Claremont, the New Hampshire Department of Environmental Services, the U.S. Army Corps of Engineers, the Office of the Attorney General, and owners of land bordering the crossing pursuant to RSA 371:19.

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>.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, VT Transco is authorized, pursuant to RSA 371:17, *et seq.*, to construct, install, operate, and maintain an aerial communications fiber optic cable over and across the Connecticut River and the Sugar River in Claremont, New Hampshire, as described in its petition and depicted in its filings and as specified in Staff's recommendation; and it is

FURTHER ORDERED, that VT Transco promptly file a petition for licenses to operate and maintain the K149 Transmission Line over and across the public waters of the Connecticut River and the Sugar River in Claremont, New Hampshire; and it is

FURTHER ORDERED, that approval is limited to the construction or alteration of the fiber optic cable under consideration in this docket, and is conditioned on the requirement that VT Transco 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 VT Transco shall submit any future proposed alteration(s) to the crossing license granted herein at least 60 days prior to undertaking any such alteration(s); and it is

FURTHER ORDERED, that VT Transco shall provide a copy of this order to (i) the Town Clerk of Claremont, New Hampshire; (ii) the New Hampshire Attorney General and all owners of land bordering on public waters at the location of the crossing, as required by RSA 371:19; (iii) the U.S. Army Corps of Engineers; and (iv) the New Hampshire Department of Environmental Services, no later than September 20, 2019, to be documented by affidavit filed with the Commission on or before September 30, 2019; and it is

FURTHER ORDERED, that VT Transco 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 20, 2019, and to be documented by affidavit filed with the Commission on or before September 30, 2019; 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 September 27, 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 October 1, 2019; and it is


FURTHER ORDERED, that this order shall be effective October 4, 2019, unless VT Transco 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 sixteenth day of September, 2019.


Kathryn M. Bailey
Commissioner


Michael S. Giaimo
Commissioner

Attested by:


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