

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 20-099

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

**Petition for Licenses to Modify, Construct, and Maintain Electric Lines
Over and Across the Merrimack River between Nashua and Hudson**

Order *Nisi* Granting License

ORDER NO. 26,430

December 11, 2020

This order grants Eversource a license to replace a static electric line over and across the Merrimack River between Nashua and Hudson with optical ground wire, and a license approving certain structure replacements made in 2017. This order is being issued on a *nisi* basis to ensure that interested persons receive notice and have an opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On June 25, 2020, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource, or the Company) filed a petition pursuant to RSA 371:17 for a license to replace a static ground wire with optical ground wire on an existing overhead 115 kV electrical transmission line, designated as the Eversource P134 Line over and across the Merrimack River from Hudson to Nashua. The petition also requested an after-the-fact license to approve certain structure replacements made in 2017. In support of its petition, Eversource filed a location plan, a plan and profile drawing, a copy of a permit granted for the crossing in 2011 by the U.S. Army Corps of Engineers, New England District (USACE) for the existing crossing, and copies of a

prior petition and commission order approving the original license granted for the crossing in 1969.

On September 24, 2020, Eversource filed a supplemental petition¹ that included a replacement of Exhibit 2 and a discussion of optical ground wire (OPGW) lines; identified a change in the applicable public water span; discussed the clearance requirements of the USACE, as outlined in permit number NAE-2010-02435; and referenced the 2012 National Electrical Safety Code (NESC) rather than the 2017 NESC.²

Commission Staff (Staff) recommended that Eversource's petition be granted. The petition and additional 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/2020/20-099.html>.

II. SUMMARY OF REQUEST

Eversource previously constructed, and currently operates and maintains, an overhead 115 kilovolt (kV) electrical transmission line, designated as the Eversource P134 Line (P134 Line), over and across the Merrimack River between the City of Nashua and the Town of Hudson. The Company proposes to replace a static line with an optical ground wire (OPGW) on the P134 Line, including a water crossing over and across the Merrimack River between structures 53 and 54. In 2017, as part of a storm hardening project, the Company replaced the original wooden structures 53 and 54 with weathered steel structures. Eversource did not seek an

¹ The September 24 "supplemental" petition filing is, in fact, a replacement petition; accordingly, from this point in the Order forward, "the petition" refers to the September 24 filing.

² Although Eversource stated in its initial filing that it would meet 2017 NESC standards, the September 24 filing states that line modifications are designed and will be constructed, maintained, and operated in accordance with 2012 NESC standards, as required by N.H. Admin. Rule Puc 306.01(b)(1). This change in reference to NESC requirements is not significant because the relevant 2017 and 2012 NESC provisions are nearly identical and substantively equivalent, and the revision creates no meaningful differences for licensing purposes.

amendment to its crossing license for the replacements at that time and now seeks an after-the-fact license for those structures. No additional wires or structures will be replaced as part of the proposed OPGW installation between structures 53 and 54. According to Eversource, the specified modifications are necessary to meet requirements for reasonable service to the public.

A. History

Eversource's petition states that the existing Merrimack River crossing between structures 53 and 54 in Hudson and Nashua was approved by the Commission in 1969.³ The petition further notes that the original wooden structures 53 and 54 were replaced in 2017 with weathered steel structures in conjunction with a storm hardening program, but that modification of the existing license was not obtained at that time.

B. Crossing Location and Construction

The proposed crossing modification will begin on the east side of the Merrimack River in the Town of Hudson at structure 53, located west of Executive Drive, and will continue in a southwesterly direction, crossing the Merrimack River to structure 54, located just east of Elgin Street and southeast of the Nashua Country Club grounds in the City of Nashua.

The crossing creates a total span of 702 feet between structures 53 and 54, with 458.4 feet spanning the public waters of the Merrimack River. Minimum water clearances for the new OPGW cable as well as the existing conductor and remaining static wire that were transferred at the time of the 2017 structure replacements were determined based on projected 100-year flood levels, a more conservative requirement than the 10-year flood levels permitted by the NESC. Eversource used floodwater elevations for the Merrimack River in Hillsborough County identified on FEMA flood map #33011C0656D, effective September 9, 2009. The 100-year

³ See Order No. 9846 (December 30, 1969), Docket D-E 5775.

flood elevation for the river in this location is approximately 112 feet, and is based on the North American Vertical Datum of 1988 (NAVD88).

The replacement in 2017 of the original wooden structures 53 and 54 with weathered steel poles included the transfer of all existing conductors for the P134 Line at the crossing location. One of the two existing static wires will be replaced with a 48-fiber OPGW. The remaining static wire and the new OPGW will be vertically attached above the conductor cables. Approval of the OPGW installation, as well as the prior replacement of structures 53 and 54, will ensure continued safe and reliable service to the public. All replacements and modifications, including the 2017 replacements of structures 53 and 54, were designed and have been or will be constructed in accordance with the 2012 NESC.

C. Regulatory Requirements

According to Eversource, no New Hampshire Department of Environmental Services (DES) statutory permits by notification (SPNs) are required for construction access or work activities related to the proposed installation of the OPGW, as the replacement of the fiber optic cable with OPGW will not disturb any surface water or soil. Eversource stated that the 2017 replacements of structures 53 and 54 fell within existing exemption provisions at the time and therefore did not require permits. The Company, however, noted that it will be submitting a request for SPNs for work in Nashua and Hudson that will result in impacts unrelated to the OPGW replacement project at the Merrimack River crossing location.

Eversource stated that the U.S. Army Corps of Engineers (USACE) regulates the subject portions of the Merrimack River as federally-designated navigable waters. Accordingly, a USACE permit is required. The Company previously consulted with USACE regarding its general permit authorization No. NAE-2010-02435. USACE amended that permit by letter dated

January 30, 2012, replacing Eversource's Permit Special Condition No. 1 with a new condition requiring that at no time and under no circumstances shall any wires with voltage at or under 115 kV be lower than an elevation of 148.91 feet on the North American Vertical Datum of 1988 (NAVD88). NESC mandates that where the USACE has issued a crossing permit, the clearance requirements of that permit will govern. Accordingly, the P134 Line has been down-rated to reduce maximum sag conditions in order to comply with the USACE clearance requirements and permit approval. The January 2012 USACE letter designated that all other terms and conditions of the original USACE authorization permit remain in full force and effect.

D. Property Rights

Eversource does not anticipate that abutters will be affected by the proposed OPGW installation because the installation is a modification of an existing crossing and will occur within the Company's existing utility easements.

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

According to Eversource, the existing crossing was constructed and has been operated and maintained to meet the reasonable requirements of service to the public, and the proposed modification will ensure that the P134 Line will continue to meet the public need.

Eversource stated that the modification will not substantially affect the public's use and enjoyment of the Merrimack River in Hudson or Nashua. The Company calculated applicable clearance requirements for the water crossing based on a 100-year flood level, a more conservative analysis than the NESC 10-year flood elevation requirement, and determined that minimum safe line clearances above the river and its shorelines will be maintained at all times.

III. SUMMARY OF STAFF REVIEW

Staff reviewed the petition and supporting documentation, applicable statutes, rules, NESC requirements, USACE documentation, and land ownership, and assessed the public need, safety, and potential impact of the requested licenses. Staff determined that the proposed construction meets the requirements of the NESC and applicable state statutes and rules. Based on its review, Staff concluded that the license Eversource has requested in this docket may be exercised without substantially affecting public rights in the Merrimack River in Hudson or Nashua. Accordingly, 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 (Supp. 2019). 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.”⁴

Based on the petition and Staff’s recommendation, we find that the proposed crossing modifications 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 modifications for the installation of an OPGW line and for the prior replacements of structures 53 and 54 may be exercised without substantially affecting the public rights in the Merrimack River, as required for

⁴ See <https://www.des.nh.gov/water>; and <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/olpw.pdf>.

approval under RSA 371:20. We therefore 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.

We note that Eversource has not provided a sufficient narrative description of the location of the crossing in its petition, and while the map included as an exhibit shows some highways and streets, it is not sufficiently detailed for members of the public to determine exactly where the crossing is on either side of the river. We expect, and have previously directed, that going forward, Eversource petitions will contain a descriptive narrative of where each crossing is located, with approximate distances from referenced landmarks, so that the crossing can be easily located and the public can be adequately informed.

This approval applies only to the OPGW line and structure replacements with existing wires that constitute the crossing specified 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 Town of Hudson, the City of Nashua, DES, USACE, and, pursuant to RSA 371:19, the Office of the Attorney General and owners of land bordering the public water 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 an optical ground wire over and across the Merrimack River in Hudson and Nashua, as described in its petition,

including the supplemental 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 OPGW line and, after the fact, to the prior replacement of the supporting structures under consideration in this docket, and is conditioned on the requirement that Eversource construct, operate, maintain, and, if necessary, alter the lines and supporting structures consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Admin. R., Puc 306.01 *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 alterations to the crossing licenses granted herein at least 60 days prior to undertaking any such alterations; and it is

FURTHER ORDERED, that future petitions for license to cross public water or land shall include an adequate description of the location(s) of each crossing that makes it clear to the public where each crossing is located; and it is

FURTHER ORDERED, that Eversource shall provide a copy of this order to: (i) the Town Clerk of Hudson and the City Administrator for the City of Nashua, New Hampshire; (ii) the New Hampshire Department of Environmental Services; (iii) the U.S. Army Corps of Engineers; and (iv) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the crossing, as required by RSA 371:19; by first class mail, no later than December 16, 2020, to be documented by affidavit filed with the Commission on or before January 7, 2021; and it is

FURTHER ORDERED, that Eversource shall cause a copy of this order *nisi* to be published on its website within one business day of this order, to be documented by affidavit filed with the Commission on or before January 7, 2021; and it is

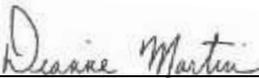
FURTHER ORDERED, that the Executive Director of the Commission shall cause a copy of this order *nisi* to be published on the Commission’s website within one business day; and it is

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 December 21, 2020, for the Commission’s consideration; and it is

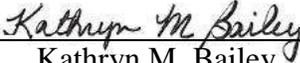
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than December 28, 2020; and it is

FURTHER ORDERED, that this order shall be effective January 11, 2021, 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 eleventh day of December, 2020.

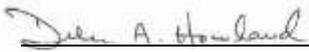


Dianne Martin
Chairwoman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 20-099

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