

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 20-211

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

**Petition for License and License Amendment to Construct and Maintain Electric Lines
Over and Across State-Owned Land in Stoddard and
Public Waters in Stoddard, Sullivan, and Keene**

Order *Nisi* Granting License

ORDER NO. 26,481

May 18, 2021

This order grants Eversource a license and a license amendment to modify, reconstruct, maintain, and operate an existing electric transmission line over and across the North Branch River and an unnamed outflow stream of Island Pond in Stoddard, Otter Brook in Sullivan, the Ashuelot River in Keene, and public land owned by the State of New Hampshire in Stoddard. 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 December 30, 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 new license and an amendment to an existing license to build, modify, reconstruct, operate, and maintain an overhead 115 kilovolt (kV) transmission line, designated as the Eversource L163 Line, over and across the North Branch River and an unnamed outflow stream of Island Pond in Stoddard, Otter Brook in Sullivan, the Ashuelot River in Keene, and land owned by the State of New Hampshire in Stoddard. On February 4, 2021, Eversource filed a replacement petition with corrections and

changes to its initial petition and exhibits. On February 10, 2021, the Company filed additional changes to the exhibits. In support of its petition, the Company submitted a high-level geographical map of the crossing locations, and plan and profile drawings with structural details of each crossing. The petition filed in this docket seeks to amend the license granted in Docket No. DE 19-172 by Order No. 26,356 (May 21, 2020) and to obtain a license for an extended, multi-span crossing over state-owned land that was not previously licensed.

Commission Staff (Staff) recommended that the 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/2020/20-211.html>.

II. SUMMARY OF REQUEST

Eversource previously constructed, and currently operates and maintains, an overhead 115 kV transmission line designated as the Eversource L163 Line (L163 Line). The line crosses the North Branch River in Stoddard, an unnamed outflow stream of Island Pond in Stoddard, the Ashuelot River in Keene, Otter Brook in Sullivan, and land owned by the State of New Hampshire in Stoddard. The Company proposes to replace six existing wood structures¹ located at an unlicensed state-owned land crossing site encompassing multiple spans and a previously licensed public water crossing along the L163 Line, with newly constructed steel support structures to ensure continued safe and reliable operation. The three existing conductors on the L163 Line will be transferred to the new steel structures, and the two existing static wires will be replaced with optical ground wire (OPGW). The existing fiber cable will be removed.

¹ Structures 27-29, 32-33, and 49.

A. History

The Eversource L163 Line was originally installed in 1954. The four public water crossings, over the North Branch River in Stoddard, the Ashuelot River in Keene, Otter Brook in Sullivan, and an unnamed outflow stream of Island Pond, were most recently licensed by the Commission in Order No. 26,356 (May 21, 2020) in Docket DE 19-172 for the replacement of existing wooden structures with newly constructed steel structures.² The Company requests that license be amended in order to replace the static wires with OPGW and to replace Structure 49. According to Eversource, Structure 49 was replaced with a new wooden structure in 2015. Eversource now seeks an amendment to replace the five-year old wooden Structure 49 with a new steel structure at this time,³ and to license Structure 26, which was replaced in 2019 without a license, due to an oversight by the Company.

The proposed crossing over state-owned land in Stoddard, involving structures 26-33, has not been previously licensed.

B. Crossing Location and Construction

The petition divides the L163 Line into five segments that include four public water crossings and one state land crossing, as listed below.

1. State-Owned Land in Stoddard - Structures 26 to 33 (Petition Exhibits 2 through 5)

The L163 Line crosses land between Structures 26 and 33 in Stoddard that is owned and managed by the Harris Center for Conservation Trust and subject to a conservation easement held by the New Hampshire Department of Natural and Cultural Resources Division of Forests

² Structures 30-31, 48-49, 132-133, and 207-208.

³ Staff confirmed that Structure 49 had been replaced with a wood structure pursuant to Order No. 26,356, and is correctly identified as an existing wood structure on the supporting exhibit in the current docket, DE 20-211.

and Lands. The state land boundary commences at the town line between Stoddard and Antrim, approximately 2,470 feet west from where the L163 Line crosses Salmon Brook Road in Antrim and approximately 310 feet west of Structure 26. The state land extends in a westerly direction to the eastern edge of NH State Route 9/Keene Road. The span between Structures 26 and 33 is approximately 3,140 feet, with approximately 2,580 feet crossing state land in Stoddard.

**2. North Branch River in Stoddard between Structures 30 and 31
(Petition Exhibit 4)**

The L163 Line crosses the North Branch River in Stoddard between Structures 30 and 31 over state-owned land, as discussed in the preceding paragraph. The crossing span is located west of the border of the Antrim town line and just east of where the transmission line crosses Route 9. The span between Structures 30 and 31 is approximately 350 feet, with approximately 56 feet crossing the public waters of the North Branch River.

3. Unnamed Outflow Stream of Island Pond in Stoddard between Structures 48 and 49 (Petition Exhibit 6)

The L163 Line crosses an unnamed outflow stream of Island Pond in Stoddard between Structures 48 and 49, approximately 1,250 feet in a northerly direction along the L163 right-of-way from where the line crosses NH State Route 123 near the intersection of NH State Route 9 and NH State Route 123. The span between Structures 48 and 49 is approximately 600 feet, with approximately 70 feet crossing the public waters of the unnamed outflow stream of Island Pond.

**4. Otter Brook in Sullivan between Structures 132 and 133
(Petition Exhibit 7)**

The L163 Line crosses Otter Brook in Sullivan between Structures 132 and 133 approximately 100 feet in an easterly direction down the L163 right-of-way from where the line crosses Valley Road approximately 0.6 mile northeast of the intersection of Centre Street and

Valley Road. The span between Structures 132 and 133 is approximately 620 feet, with approximately 46 feet crossing the public waters of Otter Brook.

**5. Ashuelot River in Keene between Structures 207 and 208
(Petition Exhibit 8)**

The L163 crosses the Ashuelot River in Keene between Structures 207 and 208, approximately 1,185 feet southwest of NH State Route 12A (Court Street) as the line follows the the-right-way. The L163 Line crosses NH State Route 12A (Court Street) just south from the intersection of Court Street and East Surry Road in Keene. The span between Structures 207 and 208 is approximately 445 feet, with approximately 46 feet crossing the public waters of the Ashuelot River in Keene.

Eversource proposes to replace wooden Structures 27-29, 32-33, and 49 with steel structures. All existing conductors will be transferred to the new steel structures. The Company also proposes to replace the two existing top-mounted shield wires on each pole with OPGW cables along the L163 Line as part of its ongoing reliability initiatives. The existing OPGW cable will be removed.

Eversource asserts that it will maintain and operate the crossing clearances in accordance with the 2012 National Electrical Safety Code (NESC) requirements at heights no less than: (i) 18.6 feet for water areas not suitable for sail boating with respect to the public water crossings; and (ii) 20.1 feet in other areas traversed by vehicles, such as cultivated, grazing, forest, and orchard lands, industrial sites, commercial sites, etc.

Eversource calculated clearances over the North Branch River, the unnamed outflow stream of Island Pond, Otter Brook, and the Ashuelot River based on applicable FEMA 100-year flood level projections and NESC requirements. The proposed line modifications on the L163

Line are designed and will be constructed in compliance with the 2012 National Electrical Safety Code (NESC), pursuant to New Hampshire Code of Administrative Rules, Puc 306.01.

C. Regulatory Requirements

Eversource stated that work on the crossing spans over the public waters depicted in its petition will include temporary minor alterations of non-tidal wetlands, non-tidal surface waters, and banks adjacent to non-tidal waters and, therefore, a DES Statutory Permit by Notification (SPN) for temporary impacts to wetlands is required. In addition, a Shoreland Permit by Notification (PBN) for temporary impacts within the shoreland buffer of each of the public waters addressed in the petition will be required. Eversource stated that it will obtain all required permits prior to the commencement of construction.

Eversource asserted that the U.S. Army Corps of Engineers (USACE) does not regulate as navigable waters the water body included in this petition. Accordingly, a USACE permit is not required.

D. Property Rights

Eversource represented that abutters will not be affected by the L163 Line project because the proposed modifications at each crossing will occur within Eversource's existing utility easements.

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

According to Eversource, the existing crossings were constructed and have been operated and maintained to meet the reasonable requirements of service to the public, and the proposed modifications will ensure that the L163 Line will continue to meet that public need. Eversource stated that the modifications will not substantially affect the public's use and enjoyment of the public waters of the North Branch River in Stoddard, the Ashuelot River in Keene, Otter Brook

in Sullivan, or the unnamed outflow stream of Island Pond in Stoddard, or the state-owned land in Stoddard.

As noted above, the Company calculated applicable clearance requirements over water based on a 100-year flood level, a more conservative analysis than the NESC 10-year flood elevation requirement, and applicable clearance requirements for the land crossings based on NESC requirements. The Company stated that minimum safe line clearances above public waters and their associated shorelines and above state-owned land will be maintained at all times.

III. SUMMARY OF STAFF REVIEW

Staff reviewed the petition and supporting documentation, applicable statutes, rules, NESC requirements, land ownership, and assessed the public need, safety, and potential impact of the requested license and proposed amendment. In the course of its review, Staff identified and requested that the Company correct numerous errors in its filing. Upon review of the Company's corrected filings, 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 licenses requested in this docket may be exercised without substantially affecting public rights in the North Branch River and the unnamed outflow stream of Island Pond in Stoddard, Otter Brook in Sullivan, the Ashuelot River in Keene, or in the identified state-owned land in Stoddard. Accordingly, Staff recommended approval of the Company's 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. 2020). 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 North Branch River in Stoddard, the Ashuelot River in Keene, Otter Pond in Sullivan, and an unnamed outflow of Island Pond in Stoddard as “public waters.”⁴

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 and amendments may be exercised without substantially affecting public rights in the North Branch River in Stoddard, the Ashuelot River in Keene, Otter Brook in Sullivan, and an unnamed outflow stream of Island Pond in Stoddard, or in the identified state-owned land in Stoddard, as required for 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.

This approval applies only to the lines and structures specified in this docket. Should Eversource seek further modifications, 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 City of Keene and the Towns of Stoddard and Sullivan, DES, the New Hampshire Department of Natural and Cultural Resources Division of

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

Forests and Lands, and, pursuant to RSA 371:19, the Office of the Attorney General and owners of land bordering the public water crossings.

Finally, we note Commission Staff has identified multiple errors in the Company's recent submissions. The number of errors warrant an internal evaluation of the Company's preparation and review of submissions to the Commission. We urge the Company to undertake such an evaluation to improve its filings, particularly in light of the number of requests for expedited approvals, which are hampered by incomplete or erroneous filings.

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, modify, rebuild, install, operate, and maintain electric lines over and across the North Branch River in Stoddard, the Ashuelot River in Keene, Otter Brook in Sullivan, and an unnamed outflow of Island Pond in Stoddard, and across public land owned by the State of New Hampshire in Stoddard, as described and depicted in its petition filings and as specified in Staff's recommendation; and it is

FURTHER ORDERED, that approval is limited to the lines and supporting structures under consideration as specified 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 alteration(s) to the crossing license and amendment 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 City Clerk of Keene and the Town Clerks of Stoddard and Sullivan, New Hampshire; (ii) the New Hampshire Department of Environmental Services; (iii) the New Hampshire Department of Natural and Cultural Resources Division of Forests and Lands; and (iv) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the crossings in Stoddard, Sullivan, and Keene, as required by RSA 371:19, by first class mail, no later than May 28, 2021, to be documented by affidavit filed with the Commission on or before June 9, 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, such publication to be documented by affidavit filed with the Commission on or before June 9, 2021; and it is

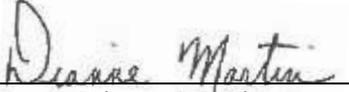
FURTHER ORDERED, that the Executive Director of the Commission shall cause a copy of this order *nisi* to be published on the Commission's website within one business day; and it is

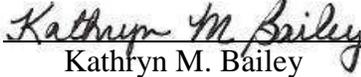
FURTHER ORDERED, that persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing that states the reason and basis for a hearing no later than June 7, 2021, for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than June 9, 2021; and it is

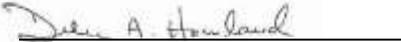
FURTHER ORDERED, that this order shall be effective June 11, 2021, unless Eversource fails to satisfy the notice and publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of
May, 2021.


Dianne Martin
Chairwoman


Kathryn M. Bailey
Commissioner

Attested by:


Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 20-211

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