

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 15-088

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

Petition for License to Cross the Warner River in the Towns of Webster and Sutton

Order *Nisi* Granting License

ORDER NO. 25,787

May 11, 2015

In this Order *Nisi*, the Commission grants Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) a license, pursuant to RSA 371:17, to construct and maintain electric lines over and across the public waters of the Warner River in two separate locations, in the Towns of Webster and Sutton. 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 in the ordering clauses below.

I. SUMMARY OF PETITION AND STAFF'S RECOMMENDATIONS

On March 16, 2015, Eversource filed a petition to reconstruct existing water crossings over the Warner River for its 317 circuit, which operates between Webster and Bradford, as a 34.5kV (3 phase) sub-transmission line. The crossing locations are located near Roby Road in Sutton, and near Dustin Road in Webster. The petition 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/2015/15-088.html>.

A. History

The reconstructed crossings are necessitated by the rebuilding of portions of the 317 circuit, including the replacement of existing poles and conductors. According to Eversource, the new sections of the circuit are necessary to meet the reasonable requirements of service to the public. The existing crossings were never originally licensed.

B. Crossing Location and Construction

Where the existing 317 circuit crosses the Warner River in Sutton, three spans between existing Structures 846 and 847, Structures 847 and 848, and Structures 848 and 849, will be replaced with a longer, single span between Structures 846 and 849, which will cross the river in two locations. The rebuilt crossing will eliminate the need for Structures 847 and 848, and the need for Eversource to access private property for future repair and maintenance.

Where the existing 317 circuit crosses the Warner River in Webster, two spans between existing Structures 1108 and 1112, and Structures 1111 and 1112, will be replaced by a longer, single span between Structures 1108 and 1112, which will cross the river in two locations. The rebuilt crossing will eliminate the need for Structure 1111 as well as the need for Eversource to access private property for future repair and maintenance.

Detailed descriptions of the new structures and the crossing configurations are contained in the company's petition. Eversource's filing highlighted the following points: the proposed new crossings will be within previously-acquired rights-of-way; the new wires will be upgrades

from the existing wires within the 317 circuit; and Eversource's design specifications, including sag height, meet the 2012 National Electrical Safety Code (NESC) standards.

C. Regulatory Requirements

RSA 371:17 (Rights in Public Waters and Lands) requires a license from the Commission before a public utility may construct "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." Among other requirements, N.H. Code of Administrative Rules Puc 306 (a) requires utilities "to construct, install, operate and maintain" its structures and lines in accord with "good utility practice[.]" which is defined as consistent with the 2012 NESC.

No permits from the Army Corps of Engineers or the New Hampshire Department of Environmental Services (NHDES) are required for the proposed crossings. Nonetheless, Eversource has filed with NHDES a Utility Maintenance Notification of work, 2014-02776, for other sections of the 317 circuit.

D. Property Rights

The new structures and wires associated with this crossing are located within a limited-access right-of-way (ROW). There are no other circuits or other utilities known to be located within the ROW.

E. Public Interest

According to Eversource, the proposed, reconstructed crossings will improve system reliability and allow for easier access outside of lands prone to flooding. Eversource also asserts that the proposed license will not substantially affect the rights of the public in the public waters

of the Warner River, in both Webster and Sutton, and the use and enjoyment of the river by the public will not be diminished in any material way as a result of the reconstructed crossings.

F. Staff's Recommended Conditions for Approval

With two conditions, Staff recommended that the Commission approve Eversource's petition. Generally, Staff agreed that Eversource had met the standard for approval under RSA 371:17. In particular, Staff confirmed that are no other circuits or other utilities known to be located within the ROW. Also, according to Staff, Eversource "provided sufficient detail to verify that no potential safety hazards will result from the alteration of the river crossing[s] under a multitude of appropriate design scenarios." Regarding Staff's proposed conditions, one would require Eversource to maintain and operate the crossings in compliance with the 2012 NESC. The other proposed condition would require that all future alterations to the proposed crossings that may affect the public conform to the requirements of the 2012 NESC and be submitted to the Commission no later than 60 days prior to the alteration.

II. COMMISSION ANALYSIS

RSA 371:17 and NH Code of Administrative Rules Puc 306 require Commission approval of Eversource's proposed crossings. 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 Commission shall approve the petition if it finds that the water-crossing license, "subject to such modifications and conditions, if any, and for such period as the commission may determine, may be exercised without substantially affecting the public rights in said waters." RSA 371:20.

NHDES is assigned responsibility under RSA 271:20 for preparing, maintaining, and publishing an official list of all public waters in the state. NHDES's official public waters list identifies the Warner River as a public river. *See*

http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm.

Based on the information presented in Eversource's petition and Staff's recommendations, we find that the proposed, reconstructed crossings are necessary for the company to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17, and 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 find that the crossing is for the public good and therefore approve the petition. 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, as described in the ordering paragraphs below.

Eversource is responsible for obtaining any and all permits necessary for the construction and installation of the proposed crossing from any federal, state, and local authorities having jurisdiction. Our approval is limited to the poles, circuits, and electric and other lines specified and depicted in Eversource's petition and attachments, and Staff's recommendation. Because NHDES is responsible by statute for maintaining the official list of public waters, we require Eversource to send notice of the proposed crossings to NHDES. We also require Eversource to send notice of the crossings to the Towns of Sutton and Webster.

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 new poles, circuits,

and electric and other lines over and across the public waters, as described in its petition and depicted in its filings, and described and depicted in Staff's recommendations; and it is

FURTHER ORDERED, that Eversource shall construct, install, operate, and maintain the lines consistent with the provisions of the 2012 NESC, and in accordance with Puc 306.01 and Puc 1303.07, 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 to the Commission any future proposed alteration(s) to the crossings governed by the 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 all spans governed by the license, pursuant to 2012 NESC 232B and 235C; and it is

FURTHER ORDERED, that, to the extent not already filed, Eversource shall file copies of all permits or agreements, if any, required for the crossing by NHDES, the New Hampshire Department of Transportation, any other federal, state, or local authorities, and any of the affected municipalities, no later than receiving the permit or entering into the agreement, or 30 days from the date of this Order *Nisi*, whichever occurs first; and it is

FURTHER ORDERED, that Eversource shall provide a copy of this Order *Nisi* by first-class mail, no later than May 21, 2015, to (i) the Town Clerk of Sutton; (ii) the Town Clerk of Webster; (iii) the New Hampshire Attorney General and any owners of the land bordering on said public waters at the location of the crossing, pursuant to RSA 371:19; and (iv) NHDES, and to be documented by affidavit filed with this office on or before June 5, 2015; and it is

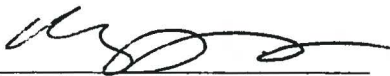
FURTHER ORDERED, that Eversource shall cause a summary of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to no later than May 21, 2015, and to be documented by affidavit filed with this office on or before June 5, 2015; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* may submit written comments or file for the Commission’s consideration a written request for a hearing which states the reason and basis for a hearing no later than May 28, 2015; and it is

FURTHER ORDERED, that any person interested in responding to such comments or request for hearing shall do so no later than June 4, 2015; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective June 10, 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 eleventh day of May 2015.

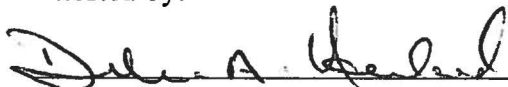


Martin P. Honigberg
Chairman



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director