

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

April 4, 2016 - 10:04 a.m.
Concord, New Hampshire

NHPUC APR22'16 PM 2:41

RE: DE 15-462
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY:
Petition for Licenses to Construct and
Maintain Electric Lines Over and Across
Public Waters in Bridgewater, Bristol,
Dalton, Deerfield, Hill, Lancaster,
New Hampton, Northfield, Pembroke, Stark,
Concord, and Franklin.
(Prehearing conference)

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Kathryn M. Bailey

Adele Leighton, Clerk

APPEARANCES: **Reptg. Public Service Co. of New Hampshire**
d/b/a Eversource Energy:

Christopher J. Allwarden, Esq.
Marvin Bellis, Esq.
Ovid Rochon (Burns & McDonnell)

Reptg. Northern Pass Transmission, LLC:
Thomas B. Getz, Esq. (McLane Middleton)

Reptg. the City of Concord:
Danielle Pacik, Esq., Dep. City Solicitor

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.
Randall Knepper, Director/Safety Division

Court Reporter: Steven E. Patnaude, LCR No. 52

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2 CHAIRMAN HONIGBERG: We're here this
3 morning in Docket 15-462, which is a Public Service
4 Company of New Hampshire, doing business as Eversource
5 Energy, Petition to Cross Public Waters. This is the
6 third of the four crossings dockets that we opened that
7 are part of the Northern Pass proceeding. The two we did
8 prehearing conferences for on Friday were Northern Pass
9 petitions, this is a PSNH/Eversource petition.

10 No one wants to hear me read from the
11 order of notice. So, I will forgo that. Before we do
12 anything else, let's take appearances.

13 MR. ALLWARDEN: Good morning, Mr.
14 Chairman, Commissioner Bailey. My name is Chris
15 Allwarden. I represent PSNH/Eversource on this docket.
16 I'm with the Eversource Energy Legal Department. With me
17 today is Ovid Rochon, from Burns & McDonnell, and Marvin
18 Bellis, also Senior Counsel in the Eversource Energy Legal
19 Department.

20 I'll let Tom make his on introduction,
21 since they intervened here.

22 MR. GETZ: Good morning, Mr. Chairman,
23 Commissioner. Tom Getz, from the law firm of McLane
24 Middleton, on behalf of Northern Pass Transmission, LLC.

1 MS. THOMSON: Leigh Thomson. I'm an
2 abutter in Franklin, New Hampshire, on Chance Pond Road.

3 CHAIRMAN HONIGBERG: Have you filed
4 anything in this docket?

5 MS. THOMSON: No, sir. I haven't.

6 CHAIRMAN HONIGBERG: Are you interested
7 in intervening?

8 MS. THOMSON: No.

9 CHAIRMAN HONIGBERG: You're just here to
10 observe?

11 MS. THOMSON: Yes.

12 CHAIRMAN HONIGBERG: Okay. Ms. Pacik.
13 Danielle Pacik, from the City of Concord. I'm a proposed
14 intervenor at this point.

15 MS. AMIDON: Good morning, Mr. Chairman,
16 Commissioner Bailey. Suzanne Amidon, for Commission
17 Staff. With me today is Randy Knepper, who's the Director
18 of the Safety Division.

19 CHAIRMAN HONIGBERG: Sir, are you here
20 with Ms. Thomson or --

21 MR. LIBERATORE: Yes. Yes, I am. My
22 name is David Liberatore. I'm a realtor. I'm selling her
23 house. And, I just wanted to get some information.

24 CHAIRMAN HONIGBERG: Oh. Okay. All

1 right.

2 MR. LIBERATORE: Thank you.

3 CHAIRMAN HONIGBERG: Uh-huh. I believe
4 then there are only the two intervenors. Is there going
5 to be any objection to either of the interventions?

6 MR. ALLWARDEN: None, Mr. Chairman.

7 CHAIRMAN HONIGBERG: We'll grant both
8 petitions to intervene.

9 All right. What, if anything, do we
10 need to do this morning, Ms. Amidon, before you have your
11 technical session?

12 MS. AMIDON: Well, just for the
13 information of Ms. Thomas and Mr. Liberatore, I could
14 explain how the process normally works, and how this is
15 slightly different in that regard?

16 CHAIRMAN HONIGBERG: Why don't you do
17 that.

18 MS. AMIDON: Thank you. This petition,
19 and the petition for which there is a prehearing
20 conference scheduled this afternoon, is a request by
21 Eversource to relocate existing lines within its
22 right-of-way. And, the purpose of the relocation is to
23 accommodate the new construction proposed by Northern Pass
24 in the two dockets you heard on Friday.

1 Normally, with respect to crossings such
2 as this, we would have an engineering review of the
3 construction and proposed structure, operation and
4 maintenance for those facilities, and determine whether it
5 is consistent with the National Electric Safety Code. In
6 addition, that review would also include whether abutters
7 have been notified and whether they have any objections,
8 whether there are any necessary permits, for example, from
9 the Army Corps of Engineers or the Department of
10 Environmental Services. And, generally, whether the
11 construction is in the public good and meets the need for
12 service.

13 Because the Safety Division does
14 anywhere from six to twelve crossings a year, the proposal
15 by the -- that represent the four dockets I think
16 constitute almost either 70 or over 70 crossings. And,
17 the Commission Staff will likely obtain consultant
18 services to facilitate the review of these proposed
19 crossings.

20 However, there is a question of the
21 public good. I would say, but for the proposed
22 construction by Northern Pass, is there really any reason
23 that Eversource needs to -- you know, is there any reason
24 for Eversource to relocate its crossings? So, that is one

1 question.

2 And, the other issue, as implicated by
3 the statute, is whether or not the crossings would
4 interfere with the public's enjoyment and use of the
5 public waters in effect.

6 And, finally, I believe that there are
7 at least two crossings that are included in this filing,
8 which haven't previously been licensed, due to some
9 question or ambiguity about the navigability of the
10 particular waters in question, but Mr. Allwarden probably
11 would be able to address that. So, that's an additional
12 issue.

13 Customarily, with a crossing, we don't
14 have intervenors. We don't have any parties opposing or
15 challenging the filing, generally because the abutters
16 want the crossing. They want either the facilities to be
17 replaced to update outdated equipment, or maybe for the
18 first time service to a particular location. So,
19 generally, there is no opposition. The Commission
20 customarily does these proceedings without a prehearing
21 conference and without a hearing.

22 In this case, the Commission has taken a
23 different proposal, because Northern Pass is --
24 constitutes transmission lines going down, I think,

1 two-thirds of the state. So, the Commission has opened
2 this up to consider the views of intervenors and
3 interested parties, such as Ms. Thomson.

4 However, having said that, my proposal,
5 and I'll discuss this with attorneys for Eversource and
6 Northern Pass Transmission, is to more or less bring all
7 of these four dockets together on a parallel path and kind
8 of do everything sequentially, so the Commission can
9 expect that the work will all be concluded at the same
10 time.

11 CHAIRMAN HONIGBERG: Mr. Allwarden, you
12 want to add anything or clarify or disagree with
13 Ms. Amidon in any way?

14 MR. ALLWARDEN: I would disagree with
15 the comment about the finding for the public good,
16 Mr. Commissioner. The statute doesn't provide for that.
17 There's a long history of these dockets being handled by
18 the Commission in the way that Ms. Amidon has described,
19 at least as far as an engineering review and analysis,
20 that's very common. The Commission Staff looks at public
21 safety, they look at public uses of the water body or the
22 land involved, and whether the proposal will affect that
23 adversely in any way.

24 I think, as the Chairman noted in last

1 week's hearing, the issue of the necessity for the
2 relocation of these existing PSNH lines turns on the NPT
3 project. And, I would expect at some point that the
4 approval of these licensing petitions would be premised on
5 the condition that the NPT project be approved through the
6 siting committee.

7 So, this is not the docket where we're
8 going to be or should be addressing those issues. And, I
9 think there's an appropriate reason for a scoping
10 memorandum on this, as the same as there are with the
11 other dockets. And, I think that we should proceed in
12 that fashion without delay or any reason to slow this
13 process down.

14 I would add one other thing. That the
15 PSNH lines that are involved here are already in service,
16 and they're just being shifted and relocated. So, we
17 don't quite have the same situation as we do with the
18 Northern Pass line.

19 COMMISSIONER BAILEY: The lines that are
20 in service are being used for distribution to customers in
21 New Hampshire?

22 MR. ALLWARDEN: Yes, ma'am. There are,
23 of the fifteen crossings, nine involve 115 kV lines, two
24 involve 34 and a half kV lines, which are all in the

1 right-of-way and all part -- integral parts of our system
2 that serve our customers, as well as the regional grid.

3 COMMISSIONER BAILEY: And they all
4 exist?

5 MR. ALLWARDEN: Yes. Yes, they do.

6 COMMISSIONER BAILEY: And, will these,
7 when they're relocated, be raised higher than the existing
8 crossing? Do you know that off the top of your head?

9 MR. ALLWARDEN: We can get into the
10 engineering details, if we need to. But I think -- I
11 don't know the answer immediately. In most cases, they're
12 being shifted or moved, and they will be built in
13 accordance with current Code standards.

14 COMMISSIONER BAILEY: Sure.

15 MR. ALLWARDEN: So, they will have the
16 appropriate height that the Code requires. They may, in
17 some cases, exceed the current height, because of the age
18 of the existing line. But, in general, they're going to
19 be similar construction, similar height, just a different
20 portion of the right-of-way will now be occupied by these
21 lines.

22 COMMISSIONER BAILEY: So, do you think,
23 I guess I'd like to hear from both you and Staff, it's
24 necessary to do legal scoping memos in this, since the

1 lines are in service and being used to serve the public in
2 New Hampshire?

3 MR. ALLWARDEN: Well, if there's no
4 issue that the scope of this proceeding is limited to the
5 engineering review, then we may not need scoping memos in
6 this particular docket.

7 CHAIRMAN HONIGBERG: I mean, my view is
8 that you've got the same legal issue present in this one
9 that we had last week. That if -- if it is necessary for
10 that provision of the statute to be interpreted and
11 satisfied here, then -- rather in those, it's going to
12 need to be satisfied here as well, because this project
13 wouldn't happen but for Northern Pass. So, I think I
14 agree with Mr. Allwarden, that this issue is going to be
15 briefed in the other docket, or maybe both dockets,
16 there's no reason why the same legal memos shouldn't be
17 filed here. You don't need four different -- three or
18 four different memos, but I think we're going to file them
19 in all the dockets. Because I think what Ms. Amidon said
20 is likely to make sense, that these four dockets should be
21 processed together. Whether that means they -- I hesitate
22 to use the word "consolidation", because I don't think
23 that's really what we're going to do, but we're going to
24 process them together. Does that make sense to people?

1 MR. ALLWARDEN: It does to me, Mr.
2 Chairman.

3 CHAIRMAN HONIGBERG: And, I see lots of
4 nodding heads, and thank you, Mr. Allwarden, for
5 verbalizing that nodding head.

6 Mr. Gets, you have anything you want to
7 add on this?

8 MR. GETZ: No, Mr. Chairman.

9 CHAIRMAN HONIGBERG: Ms. Pacik?

10 MS. PACIK: I would agree that the City
11 of Concord wants to brief the legal issues. And, we would
12 also be filing a motion to stay pending the Site
13 Evaluation Committee's decision. And, we are happy to use
14 the same briefing schedule that we had agreed on last
15 Friday.

16 CHAIRMAN HONIGBERG: Understood. I
17 actually don't know that we've heard that. Maybe we did
18 on Friday afternoon, I've forgotten now.

19 But you will have your technical
20 session, and you'll file a report after that technical
21 session, correct?

22 MS. AMIDON: Yes. I apologize for not
23 being able to get that proposed schedule to you. But
24 we've had trouble with the service list and merging. So,

1 I'm trying to get that problem solved, and then I'll
2 provide that copy to you. Thank you.

3 CHAIRMAN HONIGBERG: Technology is
4 great; often it works.

5 I have a question for someone who is
6 familiar with the drawings. This is a "why" question.

7 For example, if you were to look at the
8 Turtle Pond filing, since Concord is here. The Turtle
9 Pond appendix is Appendix 11, I think, in this filing.
10 The legend, the key that's associated with this map, I
11 didn't notice it before today, and I don't know why, but
12 for some reason I became focused on what was proposed and
13 what was existing. There may be a reason, it may just be
14 someone making -- deciding to add a degree of difficulty
15 here.

16 But, when we talk about monopoles on
17 this map, the proposed monopoles are open circles and the
18 existing monopoles are closed circles. When we talk about
19 H-frames, existing H-frames are open circles and proposed
20 H-frames are closed circles. So, you have to look back
21 and forth between the legend and the map, and keep in your
22 head "okay, is this an H-frame or a monopole?" Because
23 its existing and proposed are different; one's open, one's
24 closed in the instance -- in one instance, and they

1 flipped in the other.

2 It's an observation. There's probably
3 no answer to this question. But it makes one scratch
4 one's head when things like this happen.

5 More substantively, I do have a question
6 about what Ms. Amidon noted, and I know it's in a footnote
7 in the petition, that a couple of these crossings are not
8 licensed already. And, --

9 MR. ALLWARDEN: May I speak to that, Mr.
10 Chairman?

11 CHAIRMAN HONIGBERG: You may. Please
12 do.

13 MR. ALLWARDEN: It's -- PSNH has been
14 filing petitions like this for quite a while, as the Staff
15 and the Commissioners know.

16 CHAIRMAN HONIGBERG: Mr. Allwarden, why
17 don't you move that microphone just a little closer, and
18 make sure it's on.

19 MR. ALLWARDEN: It should be on now. Is
20 that better?

21 CHAIRMAN HONIGBERG: The phrase we like
22 to use here is "uncomfortably close to your mouth".

23 MR. ALLWARDEN: Understood. Better?

24 COMMISSIONER BAILEY: Yes.

1 CHAIRMAN HONIGBERG: Much.

2 MR. ALLWARDEN: I can even hear myself
3 now.

4 It's not uncommon that we file a water
5 crossing for an existing line, and we research it and we
6 find out that, for a number of possible reasons, that was
7 not previously licensed by the Commission. The most
8 common one that I understand is that it wasn't previously
9 licensed because, back when it was constructed, it either
10 was not considered a public water body or different
11 criteria applied. Years ago, the Commission and Staff of
12 the Commission would apply a straight navigability
13 criteria, which depended on whether or not you viewed the
14 water body as suitable for sailboat use, for example.

15 Now, the criteria tends to be more "is
16 it on the state's public water body list or isn't it?"

17 So, over the years, the Commission's
18 approach to that has changed slightly. Generally, we
19 find, in most cases, as we have here, all but four of the
20 15 crossings were previously licensed, some going back to
21 the 1970s, when the lines were built.

22 But, for the ones that aren't licensed,
23 what we're asking, obviously, now, since we're moving the
24 lines, is that those be relicensed or properly licensed in

1 their new proposed location.

2 CHAIRMAN HONIGBERG: Ms. Amidon, is this
3 anything you feel we should be concerned about?

4 MS. AMIDON: No. This, as Attorney
5 Allwarden said, this has happened before, and it's not
6 uncommon, given the change in the use of the definition of
7 "public waters".

8 CHAIRMAN HONIGBERG: All right. Is
9 there anything else we need to do before we leave you to
10 your technical session?

11 *[No verbal response]*

12 CHAIRMAN HONIGBERG: All right. Seeing
13 nothing, thank you very much. We will adjourn.

14 **(Whereupon the prehearing conference was**
15 **adjourned at 10:19 a.m., and a technical**
16 **session was held thereafter.)**

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