

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 20-103**

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

**Petition for License to Construct and Maintain Lines Over and Across  
State-Owned Land in Merrimack, New Hampshire**

**Order *Nisi* Granting License**

**ORDER NO. 26,411**

**September 25, 2020**

This order grants Eversource a license to construct and maintain electric and telecommunications lines over and across public lands owned by the State of New Hampshire in Merrimack. This order is being issued on a *nisi* basis to ensure that all interested persons receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

**I. PROCEDURAL HISTORY**

On June 29, 2020, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or Company) filed a petition, pursuant to RSA 371:17, requesting a license to construct and maintain a 345 kilovolt (kV) electric transmission line, designated as Eversource 3195 Line, over and across public lands owned by the State of New Hampshire and located in Merrimack. In support of its petition, Eversource submitted an Overview Map and a Plan and Profile Drawing. Thereafter, Eversource replaced its petition in two “supplemental” filings on August 6 and 12. The August 12 “supplemental” petition replaces the original petition and we will refer to it as “the petition” or “the Company’s petition.”

Commission Staff (Staff) recommended the Commission approve Eversource's petition and grant a license. The petition and subsequent 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/2020/20-103.html>.

## **II. SUMMARY OF THE PETITION**

Eversource has previously constructed and currently operates and maintains an overhead 345 kV electrical transmission line, designated as the Eversource 3195 Line (3195 Line), over and across State-owned land in Merrimack. In addition to licensing the existing lines, Eversource proposed replacing aging wood Structures 96 and 97 with steel structures because they have been exposed to environmental damage. The Company also proposed replacing existing static wire with Optical Ground Wire (OPGW). The existing conductors and wires will be transferred to the newly constructed support structures. The proposed modifications are part of a capital reliability project. According to Eversource the specified modifications will allow the 3195 Line to continue to function safely and reliably, and continue to meet current as well as future projected electricity demand.

### **A. History**

Eversource constructed, and currently operates and maintains, the existing 3195 Line in a crossing that has not previously been licensed by the Commission. Eversource now seeks a license for this crossing, including a license for its construction and maintenance of replacement structures and replacement of the existing static wire with OPGW.

### **B. Crossing Location and Construction**

The Company requests a license for the 3195 Line and for its proposed modifications. The proposed crossing begins east of the Daniel Webster Highway (N.H. Route 3) at

Structure 95 and continues in a westerly direction to Structure 97 located west of the Everett Turnpike between exits 10 and 11. While the Commission has jurisdiction over this crossing, the state land is owned by the New Hampshire Department of Transportation (DOT). Structures to be replaced include Structures 96 and 97. The crossing creates a 1,306-foot span. The State-owned land portion of the crossing is 386 feet.

The line modifications are designed and will be constructed, maintained, and operated in accordance with the 2012 National Electric Safety Code (NESC) standards. *See* New Hampshire Administrative Rule Puc 306.01 (b)(1) (referencing 2012 NESC).

### **C. Regulatory Requirements**

The Company said that a New Hampshire Department of Environmental Services (DES) Statutory Permit by Notification (SPN) is required for construction access and work activities because the work involves temporary and minor alteration of non-tidal wetlands, non-tidal surface waters and banks adjacent to non-tidal surface waters. According to Eversource's petition, the Company has obtained an SPN.<sup>1</sup>

### **D. Property Rights**

Eversource does not anticipate that abutters will be affected because this is a license for an existing crossing and specified modifications. The Company stated that the crossing, and proposed maintenance work, is located within the Company's existing rights of way.

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

According to Eversource, the existing crossing over the State-owned land and proposed modifications maintain minimum safe line clearances at all times. The Company said that rights of the public, and the public's use and enjoyment of the public land, will not be diminished in

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<sup>1</sup> *See* SPN #2020-00583.

any material respect. According to the Company, the existing 3195 Line and proposed modifications will ensure that current and future projected electricity demands are met and that the 3195 Line continues to function safely and reliably.

### **III. SUMMARY OF STAFF REVIEW**

Staff reviewed the petition and supporting documentation, applicable statutes, rules, NESC requirements, and land ownership, as well as public need, safety, and impact. As set forth in Staff's recommendation and attached crossing map, Staff determined that the proposed construction meets the requirements of the NESC, and applicable state statutes and rules. Staff concluded that the impact to public lands will be *de minimis* and not measurable, and that the license Eversource has requested in this docket may be exercised without substantially affecting the public rights on public lands in Merrimack. 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. 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.

Based on the petition and Staff's recommendation, we find that the proposed crossing is 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 for electric and OPGW lines may be

exercised without substantially affecting the public rights in the public lands where the crossing will be located, 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 electric and OPGW lines for which the Commission is granting a license, with the specifications as proposed 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 Merrimack, DES, DOT, and the Office of the Attorney General, pursuant to RSA 371:19.

**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 electric and OPGW lines over and across the public land as described in its petition and depicted in its related filings, and as specified in Staff's recommendation including Staff's map; and it is

**FURTHER ORDERED**, that approval is limited to the construction or alteration of the electric and OPGW lines specified in this docket, and supporting structures under consideration in this docket, and is conditioned on the requirement that Eversource construct, operate, maintain, and, if necessary, alter the lines 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 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 Town Clerk of Merrimack, New Hampshire; (ii) the New Hampshire Attorney General; (iii) the New Hampshire Department of Environmental Services, and (iv) the New Hampshire Department of Transportation, by first class mail, no later than October 2, 2020, to be documented by affidavit filed with the Commission on or before October 12, 2020; 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 October 12, 2020; and it is

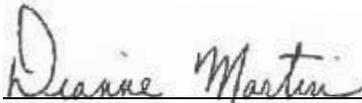
**FURTHER ORDERED**, that the Executive Director of the Commission shall cause a copy of this order nisi to be published on the Commission's website within one business day; and it is

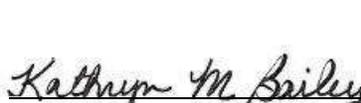
**FURTHER ORDERED**, that persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing that states the reason and basis for a hearing no later than October 5, 2020 for the Commission's consideration; and it is

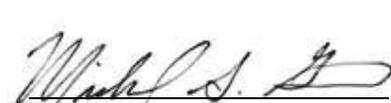
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than October 9, 2020; and it is

**FURTHER ORDERED**, that this order shall be effective October 14, 2020, 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.

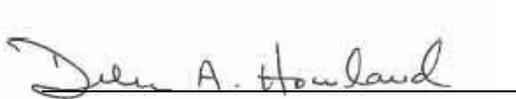
By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of September, 2020.

  
Dianne Martin  
Chairwoman

  
Kathryn M. Bailey  
Commissioner

  
Michael S. Giaimo  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

## Service List - Docket Related

Docket#: 20-103

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