

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION**

**Docket No. DE 24-087**

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

**Petition for Exemption from Town of Bethlehem Zoning Ordinance,**  
**Art. II, Part D, under RSA 674:30, III**

**Reply of the Town of Bethlehem to Public Service Company of New Hampshire**  
**d/b/a Eversource Energy's Motion for Clarification of Scope of Proceeding**

NOW COMES the Town of Bethlehem (the "Town" or "Bethlehem") and responds as follows to the Eversource Motion for Clarification of Scope of Proceeding" (the "Motion") filed by Eversource on October 4, 2024.

This matter comes before the New Hampshire Public Utilities Commission (the "Commission") on the Public Service Company of New Hampshire d/b/a/ Eversource Energy ("Eversource") request for an exemption pursuant to RSA 674:30 III from the application of the Bethlehem Zoning Ordinance Article II, Part D which states in full:

"No building or structure shall be greater than forty (40) feet in height from the average finished grade, unless a Special Exception is granted by the Zoning Board of Adjustment. However, under no circumstances shall any structure or building exceed sixty (60) feet in height. Appurtenances, such as antennae, will not exceed an additional (10) feet over the highest point of the building or

structure. Personal wireless service facilities and amateur radio antennae are exempt from this provision.”

As noted in the Motion, Eversource sought such an exception from the Town Ordinance to allow it to replace the existing towers with new towers and expand the needed rights of way to accommodate the new towers. A public hearing was held before the Town of Bethlehem Planning Board on May 22, 2024 at which it considered the new towers proposed by Eversource which exceeded not only the forty (40) foot height restriction in the Ordinance, but also the portion of Article II, Part D that states “under no circumstances shall any structure or building exceed sixty (60) feet in height.” At the May 22, 2024 public hearing, the Board heard testimony from Eversource and the public and reviewed the scope of the X178 and U199 projects within Bethlehem. Contrary to the assertions in the Eversource Motion that “[t]he Planning Board provided no meaningful discussion or justification for why a waiver was not warranted. . .” there was lengthy discussion of the Eversource request for a Special Exception waiver both during the public hearing and in its deliberations. The Planning Board concluded, based on all evidence and testimony before it that Eversource failed to adequately support its request to replace the towers with new ones that would exceed not only the forty (40) feet limit but also the sixty (60) foot cap in its Ordinance. The Planning Board therefore denied the Eversource request.

Eversource seeks to focus the inquiry in this proceeding only on the height of the proposed replacement transmission structures in Bethlehem. The Town concurs in the analysis by the Office of the Consumer Advocate (“OCA”) in its Reply of the Office of the Consumer Advocate to the Eversource Motion for Clarification of the Scope of the

Proceeding that it is not possible to make the necessary determination under RSA 674:30 III as to “whether the present or proposed situation of the structure in question is reasonably necessary for the convenience or welfare of the public. . .” without a broader scope than that proposed by Eversource for all the reasons noted in the OCA Reply. The Town therefore concurs and joins the OCA position as to this Commission’s jurisdiction to consider a broader scope and that a broader scope as defined by the OCA is necessary. The Town respectfully requests that the Commission decline to limit the scope or discovery in this proceeding as proposed by Eversource and that it reaffirm the scope of the proceeding as stated in its August 20, 2024 order. The Town also requests that the Commission direct the parties to confer with respect to an appropriate procedural schedule and order a date for submission of such a schedule.

WHEREFORE, the Town of Bethlehem respectfully requests that this Honorable Commission:

- A. Reject the request by Eversource to limit the scope of this proceeding as defined in its Motion, retaining instead the scope of the proceeding stated in the Commission’s August 20, 2024 order; and
- B. Direct the parties to confer and submit a proposed procedural schedule within a reasonable time following its ruling on the Motion for Clarification; and
- C. Grant any such further relief as it deems appropriate.

Respectfully submitted,

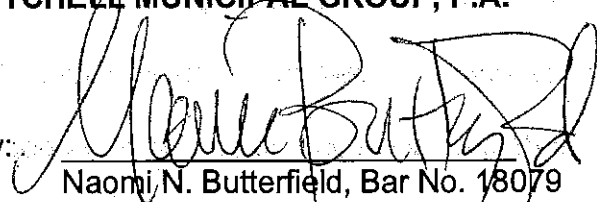
**TOWN OF BETHLEHEM**

By its Attorneys

**MITCHELL MUNICIPAL GROUP, P.A.**

Date: October 22, 2024

By:

  
Naomi N. Butterfield, Bar No. 18079  
25 Beacon Street East  
Laconia, New Hampshire 03246  
(603) 524-3885  
[Naomi@mitchellmunigroup.com](mailto:Naomi@mitchellmunigroup.com)

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that a copy of the foregoing has been e-mailed this day to all parties identified on the Commission's Service List for this docket.

Date: October 22, 2024

By:

  
Naomi N. Butterfield