

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 16-441**

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

**Petition for License to Construct and Maintain Electric Lines, Neutral Wire and  
Fiber Optic Cable Over and Across the Oyster River and Little Bay in the Town of  
Durham, NH, and Pickering Brook and Little Bay in the Town of Newington, NH**

**Order *Nisi* Granting License**

**ORDER NO. 25,998**

**March 10, 2017**

In this order *nisi*, the Commission grants the petition of Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) for licenses to construct and maintain electric lines, neutral wire and fiber optic cable over and across the Oyster River and under Little Bay in the Town of Durham, New Hampshire, and over Pickering Brook and under Little Bay in the Town of Newington, New Hampshire. 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 for comment in the ordering clauses below.

Eversource filed supporting attachments and exhibits with its petition and filed minor revisions to the supporting documents. 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/2016/16-441.html>.

## **I. Summary of Petition**

On April 12, 2016, Eversource filed a petition pursuant to RSA 371:17 for licenses to construct and maintain electric lines, neutral wire, and fiber optic cable over or under and across the public waters of the Oyster River and Little Bay in Durham, and Pickering Brook and Little Bay in Newington. On February 8, 2017, Eversource submitted several engineering design changes to accommodate concerns of abutters to the project corridor and to align its design with standard structure configurations. Eversource asserted that these minor changes to the engineering crossing designs did not affect the petition as filed. Eversource proposed to install a new 115kV line (Line F107) from its Madbury substation to its Portsmouth substation. The new line would provide a parallel path to enhance an existing loop between the Deerfield and Scobie Pond substations to address reliability concerns in the New Hampshire seacoast region, and to allow PSNH to continue to provide reliable electric service to its customers in that area of the State. According to the petition, the lines are necessary to meet the reasonable requirements of service to the public.

### **A. History**

The petition stated that PSNH previously constructed and currently operates and maintains three 34.5 kV lines in the seacoast region, designated as Lines 380, 3162 and 3850. Line 380 runs between PSNH's Madbury substation to its Packers Falls substation in Durham; Line 3162 runs from the Packers Falls substation to Little Bay in Durham. Line 3850 runs from Eversource's Portsmouth substation to Little Bay in Newington.<sup>1</sup> Eversource asserted that those

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<sup>1</sup> Eversource noted that licenses for the existing river crossings do not exist and that it seeks approval for those river crossings, in addition to the license for the new circuit, in the current petition.

lines are an integral part of its distribution system serving the seacoast region. In addition, Eversource noted that four existing underwater cables previously installed in the Little Bay corridor were later de-energized and disconnected from existing circuits, and have been abandoned in place.

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

Eversource stated that Line F107 will cross over the Oyster River and go under Little Bay in Durham. In Newington, Line F107 will cross over Pickering Brook and go under Little Bay.<sup>2</sup> Further, the overhead Oyster River crossing of Line F107 in Durham will be double-circuited with Line 380, which currently crosses the Oyster River. Line F107 will cross Pickering Brook at a location parallel to an existing river crossing by Line 3850 (but on separate structures). New structures will be installed for the overhead river crossings for both the new lines and the existing lines.

Eversource also stated that in order to improve and enhance the reliability and capacity of the communications systems used in its electric system operations, it will install and maintain an optical ground wire on its new overhead F107 structures. The ground wire will also provide lightning protection for the overhead conductors. Two fiber optic cables will be installed with the Little Bay underwater crossings to complete this communications path.

The petition stated that each of the crossings will be spanned using steel structures, with the exceptions of the easterly side of the Little Bay crossing, which will use a manhole structure, and the 34.5 kV Pickering Brook crossing, which will use wood pole structures. The petition Stated that all the crossings will comply with minimum required clearances over water and road

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<sup>2</sup> The town line between Durham and Newington bisects Little Bay.

surfaces. Finally, the petition stated that the proposed crossings have been designed and will be constructed, maintained, and operated in accordance with the applicable requirements of the 2012 National Electrical Safety Code (NESC).

### **C. Regulatory Requirements**

The petition stated that the entire project is being permitted with the New Hampshire Department of Environmental Services (NHDES) and the U.S. Army Corps of Engineers (USACE). None of the new crossing structures will be set within jurisdictional wetlands, although two structures will be set in or near shoreland protection areas. The underwater cable crossings of Little Bay will require NHDES and USACE wetlands permitting. The appropriate wetlands permits will be applied for and obtained by Eversource prior to the installation of any of the new structures associated with the crossings. Wetland permits are also required to gain access to several of the new crossing structures and such permits will likewise be obtained prior to construction. The Line F107 crossings are subject to approval and the issuance of a certificate of site and facility by the New Hampshire Site Evaluation Committee (NHSEC) as part of Eversource's Seacoast Reliability Project filing (SEC Docket No. 2015-04). All NHSEC approvals will be obtained prior to construction.

### **D. Property Rights**

The petition stated that for each of the overhead crossings, PSNH owns a permanent, minimum 100 foot wide easement for its lines and facilities on both sides of each public water body at the proposed crossing locations. All of the crossings will be constructed within the limits of the easements. On the westerly side of the Little Bay crossing, the riser pole structure

will be located on land that PSNH states it will acquire and own by the time of construction.<sup>3</sup> The proposed crossing location of Little Bay will occur in an existing 1000 feet wide cable area. On the easterly side of Little Bay, the crossing will come ashore and terminate in a manhole structure within a permanent 100 foot wide easement which PSNH will acquire and own by the time of construction.<sup>4</sup>

#### **E. Public Interest**

Eversource stated that it can exercise the rights granted by the licenses sought without substantially affecting the rights of the public in the public waters to be crossed. The petition stated that minimum safe line clearances above and below the water surfaces and affected shorelines will be maintained at all times and that the use and enjoyment by the public of the waters will not be diminished in any material respect as a result of the crossings.

## **II. SUMMARY OF STAFF REVIEW**

Staff reviewed the Company's petition and supporting documentation, applicable statutes, rules, NESC requirements, ownership of the land, as well as public need, safety, and impact. In addition, Staff reviewed the revisions submitted by Eversource on February 8, 2017. Staff recommended approval of the Company's petition for licenses as requested, including approval of licenses for the existing crossings not previously licenced by the Commission. *See* Staff Recommendation of Randy Knepper, February 1, 2017. Staff stated that the February 8<sup>th</sup> revisions did not cause it to change its recommendation.

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<sup>3</sup> PSNH stated that it has contracted with the shoreline landowner to acquire fee ownership of the westerly shore parcel.

<sup>4</sup> PSNH stated that it has contracted with the easterly shoreline landowner for the purchase of the necessary easement rights.

### III. COMMISSION ANALYSIS

Pursuant to RSA 371:17, utilities must obtain a license from the Commission to “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,” when such facilities are necessary to meet the reasonable requirements of service to the public. Under RSA 371:20, the Commission shall grant a license if it finds that the license “may be exercised without substantially affecting the public rights in said waters or lands.” RSA 371:17 defines public waters to include all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof that the Commission may prescribe. The NHDES prepares, maintains, and publishes an official list of all public waters in the state. The bodies of water listed in Eversource’s petition are included in the official list, which is maintained at <http://des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

Based on the information presented in Eversource’s petition and Staff’s recommendation, we find that the proposed crossing is necessary for Eversource to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17. We find that the requested licenses may be exercised without substantially affecting the public rights in the affected public waters, as required for approval under RSA 371:20. We therefore approve the petition subject to the conditions contained in the ordering clauses set out below to ensure safe construction, operation, and maintenance of the crossings. 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.

Eversource is responsible for obtaining any and all other permits for the construction and installation of the proposed crossings from any federal, state, and local authorities having jurisdiction. Because the NHDES is responsible for maintaining the official list of public waters, we require that notice of the proposed crossings be sent to NHDES. We also require notice be provided to the New Hampshire Site Evaluation Committee and to the towns of Durham and Newington.

**Based upon the foregoing, it is hereby**

**ORDERED *NISI***, that subject to the effective date below, and also subject to project approval by the New Hampshire Site Evaluation Committee, Eversource is authorized pursuant to RSA 371:17 to construct, install, operate, and maintain electric lines, neutral wire and fiber optic cable over or under and across the public waters described in its petition and depicted in its filings; and it is

**FURTHER ORDERED**, that licenses shall be granted for the lines proposed in the petition, subject to NHSEC approval, and for those that are already in existence for which authorization was not previously sought; and it is

**FURTHER ORDERED**, that the construction of the lines shall be implemented as depicted in the petition and supporting documents, including any revisions thereto; and it is

**FURTHER ORDERED**, that this approval is limited to the construction or alteration of the lines under consideration in this docket, and it is conditioned on the requirement that Eversource constructs, installs, operates, and maintains, and, if applicable, alters the lines consistent with the provisions of the National Electrical Safety Code, in accordance with N.H.

Code Admin. Rules Puc 306.01, 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 crossing licenses 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 *Nisi* to the (i) Town Clerks of Durham and Newington, New Hampshire; (ii) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the crossings, as required by RSA 371:19; (iii) the U.S. Army Corps of Engineers (USACE); (iv) the New Hampshire Site Evaluation Committee in SEC Docket No. 2015-04; and (v) the New Hampshire Department of Environmental Services, no later than March 20, 2017, and to be documented by affidavit filed with this office on or before April 7, 2017; and it is

**FURTHER ORDERED**, that Eversource shall cause a summary of this Order *Nisi*, issued concurrently with this Order, 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 occur no later than March 20, 2017, and to be documented by affidavit filed with this office on or before April 7, 2017; and it is

**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than March 27, 2017, 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 April 3, 2017; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective April 10, 2017, unless Eversource fails to satisfy the 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 tenth day of March, 2017.

  
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Martin P. Honigberg  
Chairman  
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Robert R. Scott  
Commissioner  
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Kathryn M. Bailey  
Commissioner

Attested by:

  
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Lori A. Davis  
Assistant Secretary