

STATE OF NEW HAMPSHIRE DEPARTMENT OF ENERGY

UNITIL ENERGY SYSTEMS, INC.

**LICENSE NO. CRE 2023-013**

July 26, 2023

**Application for License to Construct and Maintain Electric Lines  
Over and Across Public Waters in Concord**

This license is granted to Unitil Energy Systems, Inc. (“Unitil” or “UES”) to construct and maintain a portion of its 36 Line, an existing 34.5 kV distribution circuit, to the extent that it extends over and across public waters in Concord, all as described in its application and depicted in its filings, and as specified in the Enforcement Division’s recommendation. The 36 Line was previously licensed under Docket #DE4054, Order # 7,907.

**I. BACKGROUND**

On June 2, 2023,<sup>1</sup> Unitil filed an application with the N.H. Department of Energy (Department), pursuant to RSA 371:17, requesting a license to construct and maintain a portion of its 36 Line, an existing 34.5 kV distribution circuit, to the extent that it extends over and across public waters in Concord, as described in its application and depicted in its filings. On July 24, 2023, the Department’s Enforcement Division Staff filed a recommendation that the application be approved, and a license granted, based on the application filings, applicable statutes, rules, NESC requirements, and land ownership, as well as public need, safety, and impact. The application and subsequent docket filings are posted to the Department’s website (energy.nh.gov) at [Utility Crossings Over State Lands and Public Waters | NH Department of Energy](#).

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<sup>1</sup> The Company filed an amended application on July 21, 2023.

## **II. SUMMARY OF LICENSE**

### **A. Crossing Locations and Construction**

This license pertains to Unitil's 36 Line, which is a 34.5 kV distribution circuit, to the extent that it extends over and across public waters in Concord. The UES 36 line was originally built in 1962.

The proposed project for the UES 36 Line encompasses installing new steel structures on the east and west sides of the Merrimack River, identified as Structures 1 and 3. The existing wood three-pole structures are being replaced with steel H-frame equivalents to allow for the replacement of the existing 556 KCMIL wire with 795 KCMIL wire. The wire is being replaced due to age and condition. The new crossing will consist of two (2) OHSW (overhead shield wire), three (3) 795 AAC phase wires, and one (1) 795 AAC neutral wire. Unitil proposes these improvements with the intention of providing more efficient and economical maintenance and repairs, as well as improved reliability to area residents and businesses.

The UES 36 Line crossing of the Merrimack River in the City of Concord begins at the existing right-of-way, located roughly 1,500 feet west of Interstate 93 South, approximately 250 feet southeast of the intersection of 2nd Street and Sewalls Falls Park Trail, and approximately 1,450-feet of the former Sewalls Falls Dam. The crossing location is also depicted in the USGS Locus map submitted with the application as exhibit 1.

The proposed location of Structures 1 and 3 creates a total span of 650 feet, with a 502-foot span crossing public water.

### **B. Regulatory Requirements**

Unitil is responsible for obtaining any and all other federal, state, or local permits required by authorities having jurisdiction for the construction and installation of the proposed

crossing. According to the application, a New Hampshire Department of Environmental Services (NHDES) Wetlands Statutory Permit-by-Notification (SPN) and NHDES Shoreland Permit-By-Notification (PBN) will be obtained in relation to temporary impacts associated with the reconductoring prior to the commencement of construction.

The U.S. Army Corps of Engineers (ACOE) regulates the reference part of the Merrimack River as navigable waters. Replacement work discussed in the application which takes place at the referenced location is covered through a Self-Verification process under ACOE New Hampshire Programmatic General Permit #4, provided that there will be no decrease in existing clearances, which is the intent of the work, conveyed in the application. This licensing will be accomplished prior to commencement of the project.

As per the Comprehensive Shoreland Protection Act (RSA 483-B:4, XVI(c)), the jurisdictional section of the Merrimack River to be licensed in Concord is designated “from the confluence of the Winnepesaukee and Pemigewasset Rivers in Franklin to Garvin Falls in Bow”. The entire list of “Public Rivers and Streams” can be accessed through the following link:

<https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/olpw.pdf>

Part 2, “Public Rivers and Streams” is a partial listing of this set of common law waters. The current list is primarily based on the listing of rivers that fall under the jurisdiction of the CSPA.

### **C. Property Rights**

According to Unitil, abutters to the Merrimack River in Concord will not be affected by the proposed project, because the crossing structures are being replaced and rebuilt within existing right-of-way easements.

**D. Service to the Public and the Effect on Public Rights**


According to the application, the existing crossing was constructed, operated, and maintained to meet the reasonable requirements of service to the public. Unitil affirmed that the proposed modifications will continue to meet that public need and will not substantially affect the public's use and enjoyment of the public waters of the Merrimack River in Concord.

The line modifications are designed and will be constructed and maintained in accordance with the 2012 National Electrical Safety Code (NESC). The clearance requirement with respect to the water crossing was calculated using a FEMA 500-year flood level, which exceeds the NESC 10-year flood clearance requirement.

**II. DEPARTMENT DECISION**

Unitil is authorized pursuant to RSA 371:17, *et seq.*, to construct, install, operate, and maintain electric lines over and across the public waters of the Merrimack River in Concord, as described in its application and depicted in its filings, and as specified in the Enforcement Division's recommendation. Based on the factual representations set forth in the application and the recommendation, the Department finds that the requested crossing amendments are necessary 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 public rights in the public waters at the crossing location in Concord, as required for approval under RSA 371:20. Therefore, the application is approved.

By order of the Department of Energy of New Hampshire this 26<sup>th</sup> day of July 2023.



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Jared S. Chicoine  
Commissioner

Pursuant to RSA 371:20, applicants and other persons directly affected by the issuance or denial of a license may appeal to the Public Utilities Commission within 30 days of the department's decision.