

DRAFT

**Sub-petition No. 1293 –LG-01 (Ledyard-Groton)
Eversource Energy
Statewide – National Electrical Safety Code Transmission Line Maintenance Activities**

**Staff Report
November 13, 2020**

On March 2, 2017, the Connecticut Siting Council (Council) received a Petition (Petition) from The Connecticut Light and Power Company, d/b/a Eversource Energy (Eversource) for a Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for all statewide transmission line maintenance activities to comply with the updated National Electrical Safety Code (NESC) standards, including, but not limited to, conductor clearance requirements. The NESC is the authoritative code for ensuring the continued practical safeguarding of persons and utility facilities during the installation, operation and maintenance of electric power and communications utility systems, including substations, overhead lines and underground lines.

To comply with the 2017 NESC conductor clearance requirements, Eversource proposed to replace compromised wood structures exhibiting age, weathering, cracking, splitting, rot and woodpecker damage with weathering steel structures that are similar in appearance with no more than a 10-foot increase in structure height of some of the new replacement structures to comply with NESC conductor clearance requirements, as well as installation of new foundations for the replacement structures and relocation of existing lines to the new replacement structures. Structure replacements that do not require an increase in height to comply with the NESC are not subject to the Council's jurisdiction.

On March 31, 2017, the Council issued a declaratory ruling for the statewide transmission line maintenance activities that require an increase in height of the replacement structures to comply with the NESC, including the approval to replace compromised wood structures with weathering steel structures, subject to two conditions:

1. Eversource shall file with the Council a sub-petition for each site-specific transmission line maintenance activity; and
2. Eversource shall provide notice to the town(s) and abutting property owners of the proposed transmission line maintenance activity with a copy of the site-specific sub-petition indicating that comments or concerns should be submitted to the Council within 30 days of the date that the sub-petition is sent to the town(s) and abutting property owners.

Pursuant to Connecticut General Statutes (CGS) §16-50i and §16-50x, the Council has exclusive jurisdiction over electric transmission lines in the state, including the location and modifications to the facilities.

On September 30, 2020, Eversource submitted a sub-petition to replace 33 wood structures with weathering steel structures in existing right-of-way (ROW) along a portion of the existing 400/1410 Transmission Line in Ledyard and Groton (Sub-petition). The 400 Line, in its entirety, is a 69-kilovolt line that extends from Gales Ferry Substation in Ledyard to Buddington Substation in Groton to Tunnel Substation in Preston. The 1410 Line, in its entirety, is a 115-kilovolt line that extends from Montville Substation in Montville to Buddington Substation.

In its Sub-petition and consistent with Condition No. 1 of the Council's March 31, 2017 Declaratory Ruling, Eversource identified the location of each structure to be replaced that requires an increase in height and the location of each replacement structure; described the maintenance activity and included site drawings and plans depicting current field conditions and access routes to areas of the maintenance activities; included representative photo simulations of the weathering steel replacement structures and photographs of the compromised conditions of the structures to be replaced; detailed description of the potential environmental effects of construction relative to wetlands and watercourses, flood zones, Department of Energy and Environmental Protection Natural Diversity Database (DEEP NDDDB) areas, vegetation management and a mitigation and protection plan of such resources including re-vegetation and site stabilization consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended, as well as Eversource's Best Management Practices Manual for Massachusetts and Connecticut, September 2016.

In compliance with Condition No. 2 of the Council's March 31, 2017 Declaratory Ruling, on September 30, 2020, Eversource provided proof of notice to the Towns of Ledyard and Groton and 26 abutting property owners.

October 5, 2020, John Creaturo and Genevieve Triplett (Creaturo & Triplett) of 43 Pheasant Run in Ledyard submitted comment to the Council stating that the proposed Sub-petition work activities would have an adverse impact to the environment and impede their use of the right-of-way (ROW). An approximate 1,985-foot long section of the existing Eversource ROW is on the Creaturo & Triplett property. The Council responded to Creaturo & Triplett's comments on October 21, 2020. Copies of the comments and the Council's response are attached.

On October 27, 2020, Creaturo & Triplett filed a request for intervenor status and a request for a public hearing. In their request, Creaturo & Triplett state that the proposed transmission line maintenance activities within the existing ROW on their property would negatively affect Thompson Brook by clearing trees in close proximity to the brook, disturb stone walls along the property boundaries, and adversely affect their use of the existing ROW to raise Christmas trees, bees and goats. Furthermore, Creaturo & Triplett object to the placement of permanent work pads within the ROW on their property.

With regard to the concerns about Thompson Brook, Eversource plans to install temporary timber construction matting for two upland structure work pads (Structures 7426 & 7427) located on either side of Thompson Brook, and utilize an existing access road within the ROW that has a culvert crossing of the brook to access the structures, as shown on Sub-petition Map Sheet 4 of 6.

With regard to tree clearing within the ROW, given the configuration of the new replacement structures, clearing will occur to the west edge of the ROW on the Creaturo & Triplett property to meet the 2017 NESC conductor clearance requirements, resulting in the conversion of woodland to scrub-shrub or herbaceous habitats. Clearing will also occur in other areas to allow construction vehicles to safely access work pad locations.

With regard to stone walls that demarcate the Creaturo & Triplett and Avalonia Land Trust properties near Structures 7425 and 7426, Eversource intends to restore disturbed stone walls upon the completion of construction, as shown on Sub-petition Map Sheet 4 of 6.

With regard to concerns about the property owner's use of the existing ROW, the Council does not have any jurisdiction or authority to interpret and/or enforce the respective rights of the parties under the terms of the easement.

With regard to construction work pads, consistent with Item 7 on page 4 of the Council's March 31, 2017 Declaratory Ruling, property owners may request removal of work pads in upland areas.

The detailed map sheets submitted with the Sub-petition specifically identify the locations of existing structures, the locations of existing structures to be removed, the locations of proposed replacement structures, existing and proposed access routes, as well as access routes to be improved and proposed alternate access routes, hiking trails, work pads, temporary construction matting, delineated wetland boundaries, delineated watercourse boundaries, open water, DEEP NDDB areas, flood zones, existing ROW, Eversource-owned property boundaries, parcel boundaries, line list numbers of abutting property owners and municipal boundaries. Any agreements with private property owners relative to access or disagreements with private property owners relative to encroachment are not subject to the Council's jurisdiction.

Routine general maintenance and vegetation management activities of the electric transmission lines that are not directly associated with the replacement of the structures identified in the Sub-petition are under the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC) and are exempt from Council review.

Due to its interstate nature, electric transmission is subject to a multitude of mandatory federal and regional electric reliability standards, including, but not limited to, the NESC. Failure to comply with these mandatory electric reliability standards can result in penalties, sanctions or mandated remedial actions. Costs of non-compliance and the burden of compromised electric reliability are borne by the electric ratepayers of the state. Electric transmission lines are the backbone of the North American electric grid. Electric transmission lines in Connecticut impact power flows throughout the 6 state New England region and faults on an electric transmission line in Connecticut could produce cascading effects on other system elements throughout the region.

The Council's charge under the Public Utility Environmental Standards Act is to balance the public need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and the ecology of the state. Therefore, based on the foregoing and consistent with the Council's decision in Sub-petition No. 1293- BR-02 (Bethel_Redding),¹ Council staff recommends that Creaturo and Triplett's request for intervenor status and request for a public hearing be denied.

¹ Sub-petition No. 1293- BR-02 (Bethel_Redding), available at https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-1291-1300/Petition-No-1293EversourceBethelRedding



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October 5, 2020

Via email:

Melanie Bachman, Esq.
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06501

Re: Sub-Petition No. 1293-LG-01

Dear Attorney Bachman:

I represent John Creaturo and Genevieve Triplett owners of 43 Pheasant Run, Gales Ferry, Connecticut. Their property consists of 42.74 acres through which an Eversource transmission line runs. The Right of way is 100 feet in width. It traverses through both wetlands habit and areas of special environmental concern as designated by Eversource itself (see attached exhibits).

My clients have met with Eversource official on site to express what they view as issues with the above referenced application. As you can see from the enclosed aerial mapping of the right of way Eversource proposes replacing the towers with new larger towers which will required significant pads to allow for both the work and the towers. What is of paramount concern now is that Eversource has started work on the property while this sub application is pending.

There runs through the property Thompson Brook which is an environmentally sensitive area that contains brown trout. Presently, Thompson Brook crosses the right of way at about the mid-point. In order to install the new lines Eversource proposes cutting back the tree line to the limits of the right of way. This is a major concern since by doing so a large area of the stream will be exposed to direct sun light thereby causing a rise in the water temperature and effecting trout population.

Additionally, it is proposed that certain stone walls which form the boundary between my clients' property and the Avalonia Land Trust would be impacted. The land trust property intersects at an angle with my clients' property and encompasses more of the right of way.

My clients and their predecessor in title has used the right of way in conjunction with the power lines to raise Christmas trees, bees and goats. Both the proposed pads and scope of the widening

would have an adverse impact on these operations as well as the environmental wellbeing of this sensitive area. We believe Eversource can take numerous steps to reduce the adverse impact of the upgrades and will discuss those here.

The references herein were taken from the report of the Connecticut Botanical Society correspondence to the Siting Council date September 15, 2020.

In granting Eversource permission to conduct the work to comply with NESC codes without a Certificate of Compatibility and Public Need (Petition 1293, March 2017), the Connecticut Siting Council (CSC) established conditions ([https://www.ct.gov/csalib/csc/pending petitions/ 2 petitions 1201through1300/pe1293-dcltr.pdf](https://www.ct.gov/csalib/csc/pending%20petitions/2%20petitions%201201through1300/pe1293-dcltr.pdf)). Item 7 on page 4 of this document states that [Eversource plans to] "use existing access, where possible, retain work pads unless the property owner requests removal, and remove matting from wetland areas after construction..." The CBS recommends the use of timber matting wherever possible and encourages landowners to request removal of work pads to prevent permanent impairment to native communities and establishment of noxious invasive plants.

Because there are numerous pads being proposed my clients are requesting that all such pads be constructed of timber matting. Any such pads which will not or cannot be constructed of such we are asking be removed after tower installation. During our site walk it was discussed that the towers on the north westerly line of transmission would be replaced and the tree line cut up to the boundary of the right of way. Many of these trees have their trunk structure on my clients' property but branches extend into the right of way. There is significant concern that any cutting of the limbs will not only render these trees unstable but will likely kill them due to their size and age,

Because of the location of the brook we believe minimal tree removal in this area, including but not limited to any cutting back of the existing tree line, be reduced as much as possible to preserve the integrity of the brook and its trout habitat.

It does not appear that Eversource has conducted a survey of valuable plant habitat which is recommended.

Conduct comprehensive *de novo* surveys for rare plants and plant communities before work proceeds. It is recommended that such surveys be conducted as soon as possible. Once Eversource gives its required 30 day notice of work, there is not sufficient time to conduct such a survey.

Given the timing on this application it is imperative that this be conducted before any work is authorized.

During our site walk it was discussed that the removed trees may well be mulched on site and the material left behind. My clients are opposed to this for the reasons stated in the CBS report.

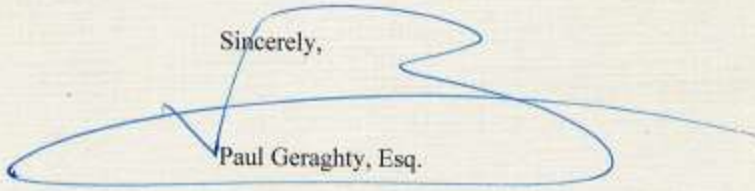
- o Wood chips smother native plant communities and important ground covers, such as dewberries, clubmosses (princess pine, running pine) and wintergreens. Phyto-toxic phenolic compounds leach from thick layers of wood chips.
- o Nutrient enrichment from chips disrupts microbial soil communities, and pollutes wetlands and waterbodies. Nutrients foster establishment of tree saplings and invasives after the wood chips have broken down.

In ROW's with naturally acidic, nutrient-poor soil, a chip-free environment will help maintain these conditions, which are not conducive to tree seed germination and will minimize creation of seed beds for undesirable woody species.

Of concern is the fact that the proposal does not provide any explicit construction practices to be employed, especially in the wetlands area. While Eversource does refer to utilizing its best practices management program a review of those guidelines proves unclear at best since they mostly allow crews on site to determine what constitutes best practices. Absent specific designs or plans at this time there exists no way to control what happens in the field.

As the attached photos indicate Eversource has previously identified the property as of special environmental concern. We are therefore deeply concerned about the lack of detail in this application.

Sincerely,



Paul Geraghty, Esq.

Enc.

cc: Kathleen Shanley, Eversource w/enc.
John Creaturo w/enc..
Genevieve Triplett w/enc.



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October 21, 2020

Paul M. Geraghty, Esq.
Geraghty & Bonnano, LLC
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RE: **SUB-PETITION NO. 1293-LG-01 (Ledyard-Groton)** – Eversource Energy declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for all transmission facility asset condition maintenance improvements statewide to comply with the updated National Electrical Safety Code clearance requirements.

Dear Attorney Geraghty:

The Connecticut Siting Council (Council) is in receipt of your recent correspondence concerning Eversource Energy's (Eversource) above-referenced request for approval to conduct transmission line maintenance activities to comply with the updated National Electrical Safety Code (NESC) standards on an existing electric transmission line that traverses the municipalities of Ledyard and Groton.

Eversource's 400/1410 Transmission Line Structure Replacement Project is part of an ongoing maintenance program within an existing electric transmission line right-of-way (ROW). Your October 21, 2020 correspondence refers to the commencement of construction activities along the existing Eversource ROW on property located at 43 Pheasant Run in Gales Ferry. Please be advised that structures that require an increase in height to comply with NESC conductor clearance requirements are subject to the Council's jurisdiction under this sub-petition. Structure replacements that do not require an increase in height to comply with the NESC are not subject to the Council's jurisdiction under this sub-petition.

The NESC is the authoritative code for ensuring the continued practical safeguarding of persons and utility facilities during the installation, operation and maintenance of utility systems, including substations, overhead lines and underground lines. Compliance with the NESC standards requires Eversource to evaluate the integrity of its utility structures and implement repair, upgrade or replacement in order to ensure the safe and reliable transmission of electric power to its customers. Due to compromised asset conditions, utility structures exhibiting age, weathering, cracking, splitting, rot and woodpecker holes must be replaced to comply with the NESC.

With regard to concerns about the property owner's use of the existing ROW, please be advised that the Council does not have any jurisdiction or authority to interpret and/or enforce the respective rights of the parties under the terms of the easement.

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October 21, 2020

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With regard to stone walls on properties traversed by the existing ROW, Eversource plans to restore the stone walls in areas where they may be disturbed during construction, including a stone wall in the northwest corner of the property at 43 Pheasant Run Drive in Gales Ferry.

With regard to the concerns about Thompson Brook, Eversource plans to install temporary timber construction matting for two upland structure work pads located on either side of Thompson Brook within its existing ROW on the property at 43 Pheasant Run Drive in Gales Ferry (See Sub-petition Map Sheet 4 of 6). Certainly, consistent with Item 7 on page 4 of the Council's March 31, 2017 Declaratory Ruling, the property owners may request removal of work pads in upland areas.

With regard to the concerns about tree removal, some tree clearing is required to facilitate conductor clearance or access to portions of the work areas. These areas will be managed as scrub-shrub or herbaceous habitat after completion of construction.

With regard to specific construction practices, consistent with Item Nos. 2, 6 and 8 on pages 3-4 of the Council's March 31, 2017 Declaratory Ruling, Eversource will utilize erosion and sedimentation controls consistent with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control*, as amended, as well as its Best Management Practices during construction and restoration. Construction sequencing will be performed such that earth materials are exposed for a minimum amount of time before they are covered, seeded, or otherwise stabilized to prevent erosion. During construction, where necessary, anti-tracking mats would be installed at construction entrances onto roads to prevent tracking of soil onto local streets. Upon completion of construction and establishment of permanent ground cover, Eversource would remove and dispose of all erosion and sediment control measures, and remove sediment and debris from areas where such measures were employed.

In reaching a final decision on a Sub-petition No. 1293, the Council carefully considers whether the request complies with the NESC standards and the Council's March 31, 2017 Declaratory Ruling.

Thank you for your interest and concern in this very important matter.

Sincerely,

s/Melanie A. Bachman

Melanie A. Bachman
Executive Director

MAB/RDM/lm

c Council Members
Kathleen Shanley, Eversource Energy