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New Hampshire Fish and Game Department

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Glenn Normandeau
Executive Director

July 3, 2018

His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
Concord, NH 03301

Requested Action

Pursuant to RSA 212:10-b, authorize the New Hampshire Fish and Game Department (NHFGD) to enter into a license agreement with Public Service Company of New Hampshire (PSNH), doing business as Eversource Energy, to allow PSNH access through several tracts of land owned by NHFGD to maintain utility rights-of-way that pass through each property, effective upon Governor and Council approval through December 31, 2028. No funding is involved.

Explanation

The New Hampshire Fish and Game Department owns several properties across the state referred to as Wildlife Management Areas. Six such properties have PSNH utility rights-of-way passing through them. PSNH requires access along existing woods roads on those properties to access their rights-of-way to maintain them. The enclosed license agreement would authorize PSNH use of those woods roads for that purpose. The agreement will run through December 31, 2028 with options for renewal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "GN", written over a horizontal line.

Glenn Normandeau
Executive Director

A handwritten signature in black ink, appearing to read "Kathy Ann LaBonte", written over a horizontal line.

Kathy Ann LaBonte
Chief, Business Division

License for Access Agreement

New Hampshire Fish & Game Department Wildlife Management Areas

This agreement made this _____ day of _____, 2018 by and between Public Service Company of New Hampshire, doing business as Eversource Energy, with a business address of 780 No. Commercial Street, Manchester, New Hampshire 03101 (hereinafter referred to as EVERSOURCE) and The State of New Hampshire, Fish & Game Department (hereinafter referred to as NH Fish & Game) with a business address of 11 Hazen Drive, Concord, New Hampshire 03301.

Whereas, NH FISH & GAME is the owner of several tracts of land, further identified and described in "Exhibit A" attached hereto;

Whereas, EVERSOURCE is the owner of utility rights-of-way that pass through each of the properties identified and described in Exhibit A and requires access to enable the maintenance and construction of and to their equipment and facilities within the said utility rights-of-way; and

Whereas, NH FISH & GAME wishes to provide access to EVERSOURCE to enable the maintenance and construction of and to their equipment and facilities within the utility right-of ways;

THEREFORE, in consideration of the mutual covenants, conditions and agreements herein contained the parties agree as follows:

1. NH FISH & GAME hereby grants EVERSOURCE and its agents (hereinafter referred to as CONTRACTORS) with permission to cross the properties identified in Exhibit A over existing access roads as identified on a survey plan specific to and included for each property shown on Exhibit A attached hereto, for temporary access to EVERSOURCE's utility right-of-way located on or adjacent to each property allowed herein.
2. The license for access granted hereby shall expire on December 31, 2028. The license may be renewed or extended by written agreement of the parties.
3. The license for access shall be revocable at NH FISH & GAME's sole discretion upon 90 days prior written notice to EVERSOURCE.
4. EVERSOURCE and its CONTRACTORS shall use each of the identified ACCESS ROADS at their own risk, and shall assume liability for, indemnify and hold NH FISH & GAME harmless from any and all claims arising from any injury to person or damage to property which may arise directly or indirectly from the use of or access to any and all of the NH FISH & GAME properties allowed herein. Any contract entered into between EVERSOURCE and its CONTRACTORS shall include an express warranty by the CONTRACTORS holding NH FISH & GAME harmless from any and all claims arising from any injury to persons or damage to property which may arise directly or indirectly from the use of or access to the NH FISH & GAME properties allowed herein.

5. As a condition of use of each ACCESS ROAD allowed herein, EVERSOURCE and its CONTRACTORS shall obtain and maintain in force: (1) comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and (2) Workers' Compensation coverage to the extent required by N.H. RSA chapter 281-A. EVERSOURCE and its CONTRACTORS shall provide NH FISH & GAME with a certificate(s) of insurance for all insurance required and for all renewal(s) of insurance no later than thirty (30) days prior to the expiration date of each insurance policy.
6. Any and all use of each ACCESS ROAD allowed herein by EVERSOURCE or its CONTRACTORS shall conform to the following terms and conditions, which shall be included in any contract entered into between EVERSOURCE and its CONTRACTORS:

TERMS AND CONDITIONS OF USE

I. GENERAL CONDITIONS

A. EVERSOURCE and its CONTRACTORS agree to observe all restrictions and provisions of this contract.

B. The use of each ACCESS ROAD allowed herein may not be assigned, transferred, sold or made over to another party without prior written permission from the Executive Director, NH Fish and Game Department. The parties hereto do not intend to benefit any third parties and this agreement shall not be construed to confer any such benefit.

C. This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto.

D. No failure of the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of provision hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Purchaser.

E. During times of soft ground, rain, melting snow and frost, weather conditions conducive to rutting, mud or damage to the existing ground from maintenance or construction equipment; all operations on each ACCESS ROAD allowed herein must be suspended until ground conditions improve to be able support the movement and use of same equipment without damage or significant disturbance to the existing ground conditions on Fish & Game land.

F. Cutting, felling, destruction, or injury to any merchantable or unmerchantable trees on the properties identified and described on Exhibit A attached hereto is prohibited without the prior approval of the Agent of the State. Any unauthorized cutting or felling of trees on NH FISH & GAME land shall be deemed a timber trespass, and NH FISH & GAME reserves all legal and equitable rights against any such trespass. However, EVERSOURCE and its CONTRACTORS are authorized to cut off limbs of trees necessary for equipment passage. Width of the ACCESS ROAD shall not exceed that of the existing access road or ten feet (10') in width.

G. Each ACCESS ROAD allowed herein shall be left in a condition equal to or better than its condition prior to the start of EVERSOURCE maintenance or construction operations. To prevent damage, no access with maintenance equipment shall be allowed when roads are soft.

H. If damage does occur to any of the ACCESS ROADS allowed herein during EVERSOURCE maintenance or construction operations, EVERSOURCE shall repair the ACCESS ROAD as needed upon completion of the operations and as directed by the Agent of the State.

I. NH FISH & GAME shall be notified by EVERSOURCE upon completion of maintenance or construction operations so that the site may be inspected before the operation is closed out. EVERSOURCE shall carry out site restoration or erosion control measures deemed necessary by the Agent of the State within 30 days of notification of the completion of maintenance or construction operations.

J. EVERSOURCE and its CONTRACTORS shall comply with all applicable laws concerning sanitation and disposal of wastes so as to prevent stream pollution and land littering. All refuse including but not limited to cans, bottles, papers and oil resulting from maintenance operations shall be removed from the State land or disposed of in an approved manner and at approved locations. In addition to reporting of a discharge of oil as required under the provisions of RSA 146-A: 5, any oil spill shall be reported immediately to the Agent of the State.

K. EVERSOURCE and its CONTRACTORS shall comply with all applicable State and local laws, rules, and regulations in connection with operations under this agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto caused their names to be set and their seals to be affixed as of the day and year first above written.

State of New Hampshire
Department of Fish & Game

By: 
Glenn Normandeau, Executive Director

STATE OF NEW HAMPSHIRE
COUNTY OF Merrimack

Personally appeared before me on this 10th day of July, 2018, Glenn Normandeau, who acknowledges himself to be the Executive Director for the New Hampshire Fish and Game Department, and as such is duly authorized to execute the foregoing instrument for the purposes therein contained, by signing his name on behalf of the State of New Hampshire.

Notary Public/Justice of the Peace [seal]

Tanya L. Haskell
Notary Public/Justice of the Peace [seal]

My Commission Expires: _____
TANYA L. HASKELL, Notary Public
My Commission Expires November 4, 2020

Public Service Company of New Hampshire
d/b/a Eversource Energy

Theresa M. Feuersanger
Theresa M. Feuersanger, Supervisor
Transmission & Distribution Rights of Way

STATE OF NEW HAMPSHIRE
COUNTY OF Hillsborough

Personally appeared before me on this 9th day of June, 2018, Theresa M. Feuersanger, who acknowledges herself to be the Supervisor, Transmission & Distribution Rights of Way Department of Eversource Energy, and as such is duly authorized to execute the foregoing instrument for the purposes therein contained, by signing her name on behalf of Eversource Energy.

Notary Public/Justice of the Peace [seal]

Eugenia N. Snyder
Notary Public/Justice of the Peace [seal]

My Commission Expires: _____
EUGENIA N. SNYDER, Notary Public
My Commission Expires June 7, 2022

[Faint circular notary seal impression]

Exhibit 'A'

The following tracts of land, as identified by their assigned Wildlife Management Area (WMA) name, along with the corresponding recorded instrument location and property description, shall be subject to the foregoing License for Access Agreement and all terms and conditions contained therein, as shown and further described on the corresponding survey plan for each tract.

Tract 1 – Greenville, NH:

Known as the Souhegan River WMA, conveyed to the State of New Hampshire Fish & Game Department on December 15, 1994 by deed of Alexander Taft and Robert Taft and recorded in the Hillsborough County Registry of Deeds in Book 5599, Page 1487.

The access road(s) over this tract and subject to the foregoing license agreement are more particularly bounded and described according to an access plan entitled “Licensed Access Plan for Public Service Co. of NH, d/b/a Eversource Energy over land of State of New Hampshire Fish & Game, Souhegan River Wildlife Management Area Tax Map 3 Lot 10, Richardson Road, Greenville, New Hampshire”, dated February 28, 2018 , prepared by Doucet Survey, Inc. to be recorded in Hillsborough County Registry of Deeds on near or even date herewith.

Tract 2 – Brentwood, NH:

Known as the Deer Hill WMA (aka Pine Road Site), conveyed to the State of New Hampshire Fish & Game Department on October 30, 2011 by deed of the State of New Hampshire, Department of Transportation and recorded in the Rockingham County Registry of Deeds in Book 5063, Page 784.

The access road(s) over this tract and subject to the foregoing license agreement are more particularly bounded and described according to an access plan entitled “Licensed Access Plan for Public Service Co. of NH, d/b/a Eversource Energy over land of State of New Hampshire Fish & Game, Deer Hill Wildlife Management Area Tax Map 203 Lot 36, Pine Road, Brentwood, New Hampshire”, dated March 1, 2018 , prepared by Doucet Survey, Inc. to be recorded in Rockingham County Registry of Deeds on near or even date herewith.

Tract 3 – Kingston, East Kingston, NH:

Known as the Currier WMA (aka SPNHF Tract), conveyed to the State of New Hampshire Fish & Game Department on August 4, 1998 by deed of the Society for the Protection of New Hampshire Forests and recorded in the Rockingham County Registry of Deeds in Book 3318, Page 1365.

The access road(s) over this tract and subject to the foregoing license agreement are more particularly bounded and described according to an access plan entitled “Licensed Access Plan for Public Service Co. of NH, d/b/a Eversource Energy over land of State of New Hampshire Fish & Game, Currier Wildlife Management Area Tax Map R16 Los 11, 12, & 14, Rowell Road, Kingston, New Hampshire”, dated February 28, 2018 , prepared by Doucet Survey, Inc. to be recorded in Rockingham County Registry of Deeds on near or even date herewith.

Tract 4 –Durham, NH:

Known as the Lamprey River WMA (aka LaRoche & Woodman Brook), conveyed to the State of New Hampshire Fish & Game Department on October 21, 2008 by deed of The Nature Conservancy and recorded in the Strafford County Registry of Deeds in Book 3690, Page 690; and on November 2, 2009 by deed of The Nature Conservancy and recorded in the Strafford County Registry of Deeds in Book 3793, Page 564.

The access road(s) over this tract and subject to the foregoing license agreement are more particularly bounded and described according to an access plan entitled “Licensed Access Plan for Public Service Co. of NH, d/b/a Eversource Energy over land of State of New Hampshire Fish & Game, Lamprey River Wildlife Management Area Tax Map 15 Lot 1-0, Bennett Road, Durham, New Hampshire”, dated February 28, 2018 , prepared by Doucet Survey, Inc. to be recorded in Strafford County Registry of Deeds on near or even date herewith.

Tract 5 – Dover, NH:

Known as the Cocheco River WMA (aka Great Bay Megasite), conveyed to the State of New Hampshire Fish & Game Department on June 25, 2001 by deed of The Nature Conservancy and recorded in the Strafford County Registry of Deeds in Book 2340 Page 7; and on October 21, 2008 by deed of The Nature Conservancy and recorded in the Strafford County Registry of Deeds in Book 3690, Page 671; and on November 2, 2009 by deed of The Nature Conservancy and recorded in the Strafford County Registry of Deeds in Book 3793, Page 585.

The access road(s) over this tract and subject to the foregoing license agreement are more particularly bounded and described according to an access plan entitled “Licensed Access Plan for Public Service Co. of NH, d/b/a Eversource Energy over land of State of New Hampshire Fish & Game, Cocheco River Wildlife Management Area Tax Map K Lot 2, Henry Law Avenue, Dover, New Hampshire”, dated February 28, 2018 , prepared by Doucet Survey, Inc. to be recorded in Strafford County Registry of Deeds on near or even date herewith.

Tract 6 – Deerfield, NH

Known as Lamontagne WMA, conveyed to the State of New Hampshire Fish & Game Department on July 30, 1981 by deed of Emery A. Lamontagne and recorded in the Rockingham County Registry of Deeds in Book 2393 Page 819.

The access road(s) over this tract and subject to the foregoing license agreement are more particularly bounded and described according to an access plan entitled “Licensed Access Plan for Public Service Co. of NH, d/b/a Eversource Energy over land of State of New Hampshire Fish & Game, Lamontagne Wildlife Management Area Tax Map 407 Lot 26, Off Woodman Road, Deerfield, New Hampshire”, dated April 9, 2018 , prepared by Doucet Survey, Inc. to be recorded in Rockingham County Registry of Deeds on near or even date herewith.