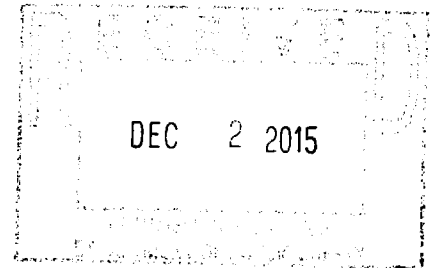


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November 5, 2015

Hon. Matt Carlin
Commissioner
Department of Public Safety
Boston Office
One Ashburton Place, Room 1301
Boston, MA 02108



Re: Utility Exemption 520 CMR 600 and 562 Comments

Dear Commissioner Carlin:

This letter responds to the invitation that the Department of Public Safety (DPS) recently posted on its website soliciting comments and feedback pursuant to Executive Order 562. We wish to comment specifically upon the recent interpretation made by the DPS to its Hoisting Machinery regulations in November 2013 with respect to the exemption applicable to certain public utilities, such as Eversource, which maintains a DPS approved in-service training and licensing programs.

Background

For many years the Department has allowed an exemption to the utility companies (Eversource, National Grid, Unitil, Verizon to name a few) regarding hoisting and rigging under the guise of an exemption from getting state licenses to operate their equipment based on Mass law. This exemption required an approved training program and a master license holder to oversee the program and licenses.

Comments

Eversource has read the comments submitted by National Grid and agrees with their position (attachment A). To avoid redundancy, we will accept National Grid's comments as Eversource's position as well. We would also like to thank Governor Charles Baker for offering this opportunity to submit comments to DPS on its current regulations concerning the public utility exemption pursuant to Executive Order 562.

Additional Comments

- The number of employees affected by the most recent interpretation of MGL c. 146, § 53 ("Section 53") at Eversource is approximately 1450.
- As with any enforcement of rules, spirit and intent are the underlying forces which drive the law. It is our opinion and longstanding interpretation, that the manner of which the in service program was enforced in the past, suffices the spirit and intent of providing trained and qualified workers

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to work safely and who are mindful of the public when working in public area performing utility work.

- The Federal government (in this case the comparison would be OSHA) provides a process by the OMB (Office of Management and Budget) to allow industry to identify the potential economic impact the new rule or modification of the rule would have and delivers a thorough public report to justify the rule and/or takes into consideration the comments and adjusts the rule accordingly.
- Until recently licensed all their workforce who had the potential to operate hoisting and rigging equipment to meet, what they were informed to be, the “new interpretation. We only mention this point to demonstrate that if the statute is interpreted to require all utility employees to hold a state license based on the fact that crew compliments are different on a day to day basis; the exemption is of no value to the utility industry and cannot even be defined as an exemption.
- Eversource attended a public hearing in 2012 to express the position and were informed that the Company would not need to have a state licensed employee at each job site.
- As with National Grid, Eversource’s in service training program was approved with only a few state license holders, which, based on conversations and the approval of the program, the Company believed that the exemption was still valid.
- Finally, Eversource is also a state approved provider of CEU’s, which demonstrates the quality of training the Company provides.

The Company therefore requests that the DPS revise, modify or deliver an interim memo of understanding regarding the existing regulations upon conclusion of its review of 520 CMR 600, et seq., so as to recognize the value of the public utility exemption to both the industry and the ratepayers of Massachusetts to reflect the manner of implementation prior to November 2013.

We again thank you for this opportunity to comment on this important issue. Should you have any questions or need any additional information from Eversource, please do not hesitate to contact us.

With good faith,
Paul J. Mackintire
Director of Safety, Eversource