

DT 05-134

VERIZON NEW HAMPSHIRE

Petition for License to Cross Public Waters

**Order *Nisi* Approving Submarine Cable Crossing in the Merrimack River between
Merrimack and Litchfield**

ORDER NO. 24,532

October 21, 2005

Verizon New Hampshire (Verizon) filed with the New Hampshire Public Utilities Commission (Commission), on August 18, 2005, a petition under RSA 371:17 for authority to construct and maintain telephone lines under public waters in the State of New Hampshire. The proposed construction crosses the Merrimack River between the towns of Merrimack and Litchfield, New Hampshire, more specifically from 22 Wright Avenue on the Merrimack shore side to 51 Naticook Avenue on the Litchfield shore side. This section of the Merrimack River measures approximately 600 feet in width at an approximate depth of 15 feet. There is an existing crossing with cables placed in 1967, 1977 and, most recently, in 1989. *See* 75 NHPUC 46 (1990).

Verizon states that this construction will provide Fiber To The Premise (FTTP) services in conjunction with growth in demand in the town of Litchfield within the Merrimack exchange. It also asserts that the cable will not adversely affect the public's rights in the Merrimack River.

Upon review of the filed documentation, Staff has verified, by memorandum dated October 17, 2005, that Verizon's proposed construction meets the requirements of the

2002 National Electrical Safety Code. Staff recommends approval, noting its view that the submarine cable will meet the demand in the area.

RSA 371:17 defines public waters as "...all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the commission may prescribe." The Commission has defined public waters as "...those streams which are commonly used for navigation." 35 NHPUC 94 (1953). We find that the Merrimack River constitutes such a public water.

Upon review of the petition and Staff's recommendation, we find that the proposed crossing is necessary for Verizon to enhance service to its customers and is in the public good. Moreover, Verizon's placement of this submarine cable will not diminish the use and enjoyment of the Merrimack River by the public. We will approve the petition, on a *nisi* basis, as filed.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, Verizon is authorized pursuant to RSA 371:17 to construct, maintain, and operate a submarine cable under the Merrimack River at the Merrimack and Litchfield location described above; and it is

FURTHER ORDERED, that all construction and future reconstruction to said approved crossing, shall conform to the requirements of the National Electrical Safety Code and all other applicable safety standards in existence at that time; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order *Nisi* to be sent by first class mail to the Merrimack and Litchfield town clerks and, pursuant to RSA 371:19, to the Attorney General and to such owners of lands bordering on said public works and

it shall cause a copy 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 be no later than October 31, 2005 and to be documented by affidavit filed with this office on or before November 21, 2005; 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 November 7, 2005 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 November 14, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective November 21, 2005, unless the Petitioner fails to satisfy the publication obligation 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 twenty-first day of October, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary