

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 12-088

GRANITE STATE GAS TRANSMISSION COMPANY, INC.

**Petition for Authority to Construct and Maintain a Segment of Interstate Gas Pipeline
Under and Across Public Waters and Lands**

Order *Nisi* Granting Authority

ORDER NO. 25,403

August 24, 2012

I. SUMMARY OF THE PETITION

On April 9, 2012, Granite State Gas Transmission Company, Inc. (GSGT) filed a petition pursuant to RSA 371:17 requesting a license to construct and maintain a segment of existing interstate natural gas transmission pipeline under and across the juncture of Little Bay and the Piscataqua River between the City of Dover and the Town of Newington, New Hampshire.

GSGT states in its petition that it previously constructed and currently owns, operates and maintains a bidirectional 87 mile-long high-pressure gas transmission line that transports natural gas between Haverhill, Massachusetts and Portland, Maine, a 1,500-foot segment of which crosses over Little Bay between Dover and Newington. The existing 10-inch pipeline has been suspended on the Little Bay Bridge since a federal certificate of public convenience and necessity was issued in 1968. *See* 40 F.P.C. 457, 1968 WL 4590 (F.P.C., September 16, 1968).

According to GSGT, the New Hampshire Department of Transportation (NHDOT) plans to remove Little Bay Bridge in mid-2013 as part of a roadway project (Newington-Dover Project #11238) and has requested removal of the pipeline segment currently located

on the bridge. The project proposed in GSGT's petition will involve removing the existing pipeline segment from Little Bay Bridge and reconstructing it under the juncture of Little Bay and the Pisquataqua River by means of horizontal directional drilling. GSGT states that the project is covered by a FERC-issued blanket certificate of public convenience and necessity. *See* 21 FERC ¶ 62238, 1982 WL 39567 (F.E.R.C.). GSGT adds that this Commission joined with GSGT in seeking FERC approval of certain mechanisms for review of capital expenditures for this project, which approval was granted. *See* 136 FERC 61153 (August 31, 2011).

GSGT asserts that in order to meet the reasonable requirements of service to the public and to assure uninterrupted interstate gas transmission service to occur upon NHDOT removal of the Little Bay Bridge in mid-2013, GSGT must commence construction of the project by January 2013.

Crossing Location and Construction

According to the initial petition, the instant project will involve construction and installation of approximately 2,500 linear feet of 10-inch coated steel pipeline approximately 30 feet below the bed of Little Bay, parallel with the existing crossing. On July 16 and 18, 2012, GSGT supplemented its original submission with a 50-foot permanent easement plan and a 180-foot temporary construction easement. According to GSGT, approval of the easement was granted on June 26, 2012, by the New Hampshire Long Range Capital Planning and Utilization Committee pursuant to RSA 4:40. GSGT attached maps and schematics to its July submissions that depict the proposed location, design and construction of the crossing under Little Bay and associated tie-in construction to existing pipeline on either side of Little Bay.

Regulatory Requirements

GSGT asserts that all material and construction specifications will comply with applicable federal and state regulations, including safety regulations promulgated under the Natural Gas Pipeline Safety Act, this Commission's rules, and other applicable authorities.

In compliance with a February 9, 2012 letter from the New Hampshire Attorney General, GSGT is in the process of acquiring necessary property interests for the project pursuant to RSA 4:40. The February 9, 2012 letter indicates that:

[i]n order to legally drill through and under the submerged land in question, the driller would have to first obtain a grant of an easement to acquire a property right in the submerged land, which would remain subject to the public trust. The easement would have to be approved by the Governor and his Executive Council and be approved by the Long Range Capital Planning and Utilization Committee, with advice from the Council on Resources and Development, per RSA 4:40. The drilling proposal would also have to be submitted for comment to the appropriate River Management Advisory Committee, pursuant to RSA Ch. 483.

Public Rights in the Public Waters of Little Bay

GSGT submits that the license for which it has petitioned may be exercised without substantially affecting the rights of the public in the affected waters and land. According to GSGT, excavation activities on State land in Dover and Newington during initial construction activities will be temporary and limited in scope, and the pipeline to be inserted by horizontal directional drilling will be located entirely underground and well below the bed of Little Bay. GSGT further attests that the use and enjoyment by the public of Little Bay

and the surrounding areas will not be diminished in any material respect as a result of the underground line crossing below the bay.

II. SUMMARY OF STAFF REVIEW

In a memorandum filed on August 9, 2012, the Commission's Safety Division found that GSGT has provided sufficient documentation to demonstrate that all easements are in place to allow for the gas pipeline to be built under the bed of Little Bay as well as on the northern and southern shore of the Piscataqua River. The affected parcels on the shores of the Piscataqua River are currently owned by the NHDOT. According to Staff, standard use and occupancy agreements negotiated between NHDOT and GSGT will apply to those parcels.

The Safety Division's review of the petition and attachments submitted to date further found the proposed attachments to be in conformance with the applicable sections of the Puc 500 rules and 49 CFR Part 192. Upon review of the petition and existing field conditions, Staff further determined that GSGT has demonstrated a public need for the proposed crossing and that approval of the petition for a license is consistent with the public interest, as required under RSA 371:17 and RSA 371:20.

In its memorandum, the Safety Division recommends approval of GSGT's petition for a license to construct and maintain electric lines under and across Little Bay in Dover and Newington, subject to the following conditions:

- 1) The approval be limited to the GSGT natural gas pipeline under consideration in this docket;

2) Information regarding the grade and type of steel comprising the natural gas pipeline at issue be submitted to the Commission. The type of cathodic protective coating should be submitted, including the mil thickness of the coating be submitted as record of the file; and

3) GSGT should be required to maintain and operate the crossings in conformance with the latest amendments to 49 CFR Part 192.

On August 17, 2012, GSGT filed the information requested by Staff regarding the grade and type of steel comprising the natural gas pipeline at issue. According to the Safety Division, safe ongoing operation is an inherent component of the RSA 371:20 public rights standard, and if the engineering conditions noted in its memorandum are met, the proposed natural gas pipeline will meet all current safety standards.

III. COMMISSION ANALYSIS

RSA 371:17 requires utilities and corporations to petition the Commission for a license to construct and maintain pipeline, cable, or conduit, or a line of poles or towers and wires and associated fixtures over, under or across any public waters of the state whenever such facilities are necessary to meet the reasonable requirements of service to the public. Public waters, as defined in RSA 371:17, means all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe. The New Hampshire Department of Environmental Services (NHDES) is assigned responsibility under RSA 271:20 for preparing, maintaining, and publishing an official list of all public waters in the state. Little Bay in Dover and Newington is included as a tidal water on the official list, which is maintained at http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm.

Based on the information presented in GSGT's submissions and Staff's memorandum, we find the proposed crossing necessary for GSGT to meet the reasonable requirements of reliable service to the public within GSGT's authorized franchise area, as required by RSA 371:17, and that the requested license may be exercised without substantially affecting the public rights in the public waters in question, as required for approval under RSA 371:20. We find the crossing is in the public good and therefore approve the petition on a *nisi* basis, subject to the two remaining conditions recommended by the Safety Division. Our decision is issued on a *nisi* basis in order to provide any interested party the opportunity to submit comments on GSGT's petition or to request a hearing. Finally, inasmuch as NHDES is responsible by statute for maintaining the official list of public waters, and given NHDOT's oversight of the bridge construction project and the role of the New Hampshire Long Range Capital Planning and Utilization Committee pursuant to RSA 4:40, we determine that notice of the proposed crossings to each of those entities is warranted.

The petition and subsequent docket filings, other than oversized plan documents, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2012/12-088.html>.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, GSGT is authorized, pursuant to RSA 371:17 *et seq.*, to construct, maintain and operate a gas transmission pipeline under and across the public waters described in its petition and depicted in its filing; and it is

FURTHER ORDERED, that all construction and future alterations to this approved crossing shall conform to the requirements of the Natural Gas Pipeline Safety Act, in

accordance with N.H. Code Admin. Rules Puc 500.01 *et seq.*, 49 CFR Part 192, the Natural Gas Pipeline Safety Act, and all other applicable safety standards; and it is

FURTHER ORDERED, that GSGT submit any future proposed alterations to the crossing license granted herein at least 60 days prior to any such alteration(s); and it is

FURTHER ORDERED, that copies of all permits, if any, required by the New Hampshire Department of Environmental Services for this crossing be filed with this Commission; and it is

FURTHER ORDERED, that copies of all permits, if any, required by the New Hampshire Department of Transportation for this crossing be filed with this Commission; and it is

FURTHER ORDERED, that copies of all licenses or permits, if any, required by the City of Dover and the Town of Newington for this crossing be filed with this Commission; and it is

FURTHER ORDERED, that GSGT shall provide a copy of this order to (i) the Town Clerks of Dover and Newington, (ii) the New Hampshire Attorney General and the owners of the land bordering on the public waters at the location of the crossing, pursuant to RSA 371:19, (iii) the New Hampshire Department of Environmental Services, (iv) the New Hampshire Long Range Capital Planning and Utilization Committee, and (v) the New Hampshire Department of Transportation by first class mail, no later than September 3, 2012, and to be documented by affidavit filed with this office on or before September 10, 2012; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions

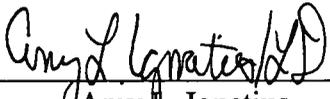
of the state where operations are conducted, such publication to be no later than September 3, 2012 and to be documented by affidavit filed with this office on or before September 24, 2012; and it is

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 September 10, 2012 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 September 17, 2012; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective September 24, 2012, 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-fourth day of August, 2012.



Amy J. Ignatius
Chairman

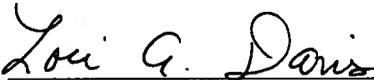


Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Lori A. Davis
Assistant Secretary