

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 11-019

TELJET LONGHAUL OF NEW HAMPSHIRE LLC

**Petition for License to Construct and Maintain Fiber Optic Cable
Over and Across the Wilton-Bennington Railroad in Wilton**

Order *Nisi* Granting License

ORDER NO. 25,231

June 10, 2011

On January 13, 2011, Teljet Longhaul LLC (Teljet) filed a petition with the Commission for a license to construct and maintain a fiber optic cable over and across the Wilton-Bennington Railroad in Wilton, New Hampshire. The proposed 288 strand fiber optic cable will cross the Wilton-Bennington Railroad at the intersection of Island Street and Burns Hill Road in Wilton. Teljet, a competitive local exchange carrier authorized to operate in the State of New Hampshire, proposes to expand its existing fiber network to provide telecommunications services to customers in the state, noting in its petition that construction of a new fiber optic cable is required to meet reasonable requirements of service to the public.

The crossing in question consists of a fiber optic cable placed between two existing utility poles set approximately 192 feet apart, owned jointly by Public Service of New Hampshire, TDS Telecommunications Corp., and FairPoint Communications. The pole on the southwest side of Island Street, pole number 40/1:4/4, is approximately 50 feet tall. The pole on the northeast side of the Burns Hill Road, pole number 6/1:4/1:342, is also approximately 50 feet tall. The Teljet fiber optic cable attachment will consist of a cable strand (nominal diameter of ¼ inch, 7-strand steel EHS) and one non-self-supporting fiber optic cable (with an added diameter of 0.858 inch

and added weight of 0.196 pounds per foot). According to the petition, the strand and non-self-supporting cable will be sagged using heavy load conditions (0 degrees Fahrenheit, 4.0 pounds per square foot wind loading, and ½-inch radial ice) with a maximum tension of 1,857 pounds under those loading conditions.

According to the petition, approval to construct and maintain the proposed fiber optic cable has been obtained from the Wilton-Bennington Railroad, and a petition for approval has been submitted to the New Hampshire Department of Transportation's Bureau of Rail and Transit. Also according to the petition, no New Hampshire Department of Environmental Services permit is required. Teljet notes that the crossing will maintain proper clearances as required by the National Electrical Safety Code (NESC), including NESC Table 232-1, and will not affect the Wilton-Bennington Railroad.

RSA 371:17 requires utilities and corporations to petition the Commission for a license to construct and maintain cable, conduit or poles and associated wires and fixtures over, under or across any land owned by the state whenever such facilities are necessary to meet the reasonable requirements of service to the public. In this proceeding, the railroad property at the site of the proposed crossing is owned by the state and leased to the Wilton-Bennington Railroad.

On June 6, 2011, Staff filed a memorandum recounting its review of Teljet's petition pursuant to RSA 371:17. Staff's review included an examination of the technical details of the facilities in question, compliance with NESC requirements, the applicability of other state agency permitting requirements, and land ownership associated with the crossing. According to Staff, the Safety Division conducted a field inspection of the proposed crossing on January 25, 2011, and on March 25, 2011, held a teleconference with Teljet and its engineering contractor to discuss pertinent information missing from the January petition and attachments. As a result,

Teljet submitted a revised petition and attachments on April 21, 2011, detailing the profile, pole loadings, and location of the proposed crossing.

Teljet informed Safety Division staff that the crossing will be constructed according to the NESC C2-2007, as required by N.H. Code Admin. Rules, Puc 1303.07, Installation and Maintenance of Utility Pole Attachments, and that construction of the crossing meets the standards established by NESC C2 -2002, as required by Puc 433.01, Standard Practice in Construction, Operation, and Maintenance.

The Safety Division found the revised petition and attachments to be in conformance with the applicable sections of NESC C2-2002 and RSA 373:39. In particular, Staff notes that Teljet portrayed a vertical clearance of at least 27.5 feet from the rail, meeting the minimum requirements of 23.5 feet and 22 feet. Based on Staff's review, there are no other utilities located on this railroad crossing, although existing guying was indicated.

Staff recommended approval of the petition with the following conditions: 1) that all future alterations to the crossings conform to the requirements of both the 2002 and 2007 editions of the NESC and be submitted to the Commission 60 days prior to any alteration; and 2) that Teljet be required to maintain and operate the crossings in conformance with the NESC or risk future revocation of the license.

Based on the record information presented by Teljet, the review and recommendations of the Safety Division as set forth in Staff's June 6, 2011 memorandum, we find the crossing at issue to be necessary for Teljet to meet the reasonable requirements of reliable service to the public, and that the requested license may be exercised without substantially affecting public rights with respect to the affected state-owned property. We find that the crossing is in the public good and we approve the petition on a *nisi* basis in order to provide any interested party

the opportunity to submit comments on Teljet's petition or to request a hearing. We therefore grant Teljet's request for a license to construct and maintain a fiber optic cable at the crossing in question.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, Teljet is authorized, pursuant to RSA 371:17 *et seq.*, to construct and maintain a fiber optic cable over and across the state-owned property described in its revised petition and depicted in the revised plans and charts referenced in the petition and on file with the Commission; and it is

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

FURTHER ORDERED, that Teljet maintain and operate the crossing in conformance with the National Electrical Safety Code; and it is

FURTHER ORDERED, that Teljet shall provide copies of this order to (i) the Town Clerk of Wilton; (ii) the New Hampshire Attorney General and the owners of the land bordering on said property at the location of the crossing, pursuant to RSA 371:19; (iii) the New Hampshire Department of Transportation pursuant to RSAs 373:1-a, II and 422-B:13; and (iv) the New Hampshire Department of Environmental Services. All copies should be provided by first class mail, postmarked no later than June 20, 2011, and documented by affidavit filed with the Commission on or before June 24, 2011; and it is

FURTHER ORDERED, that Teljet 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

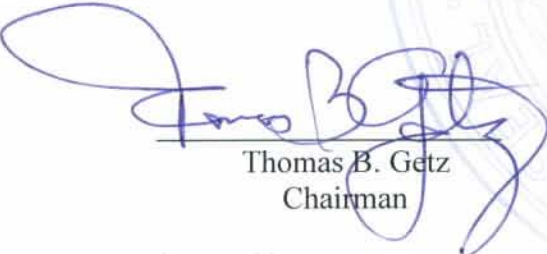
state where operations are conducted, such publication to be no later than June 20, 2011, and to be documented by affidavit filed with this office on or before June 24, 2011; and it is

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 June 30, 2011 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 July 5, 2011; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective July 8, 2011, 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.

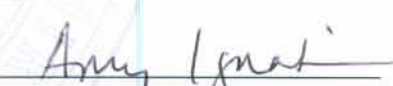
By order of the Public Utilities Commission of New Hampshire this tenth day of June, 2011.



Thomas B. Getz
Chairman



Clifton C. Below
Commissioner



Amy L. Ignatius
Commissioner

Attested by:



Lori A. Davis
Assistant Secretary

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06/10/11 Order No. 25,231 issued and forwarded to all parties.
Copies given to PUC Staff.

Docket #: 11-019-1 Printed: June 13, 2011

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.