

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

DATE: April 29, 2013  
AT (OFFICE): NHPUC

*David*

FROM: David Goyette, Utility Analyst III - Telecommunications

SUBJECT: DT 13-052 FairPoint Communications - NNE  
Petition to Cross Public Waterway in Somersworth

TO: Commissioners  
Debra Howland, Executive Director

On February 15, 2013, Northern New England Telephone Operations LLC d/b/a FairPoint Communications - NNE (FairPoint) filed a petition, pursuant to RSA 371:17, seeking approval for a license to temporarily place and maintain aerial cables over public waters in Somersworth. On March 4, 2013 FairPoint filed a revised version of a technical document, marked as "Exhibit B," that was provided with the initial petition. On April 9, 2013, FairPoint filed additional revisions to Exhibit B and also submitted an additional document that was marked as "Exhibit C" and labeled as proprietary. On April 16, 2013, FairPoint filed a revision to Exhibit C which removed the proprietary label.

The location of the crossing in this petition is as follows:

- Somersworth: Salmon Falls River crossing parallel to the westerly side of Market Street (Route 9), between utility poles 42/1 and 42/2.

The river crossed by the cables in this petition is listed as a public water in the Department of Environmental Services' official list of public waters and therefore requires a license pursuant to RSA 371:17.

### Review of public need and public impact

In its petition, FairPoint states that two 1800 pair aerial copper cables would be placed, on a temporary basis, on an existing pole line during reconstruction of the bridge over the Salmon Falls River, between Somersworth, New Hampshire and Berwick, Maine. According to FairPoint, the cables will be removed when the new bridge is completed and conduit and cables have been placed through the bridge. FairPoint states that the facility is designed to provide telecommunication service to customers in New Hampshire and parts of Maine.

FairPoint informed Staff, by email, that no approval is needed from the New Hampshire Department of Transportation or the New Hampshire Department of Environmental Services. FairPoint submits, in its petition, that “the granting of a license will not adversely affect the public rights on the water. The use and enjoyment by the public of the waterway will not be diminished in any material respect as a result of the overhead line crossing.”

### **Review of NESC code requirements**

According to the petition, the crossing will be constructed and maintained according to the National Electrical Safety Code (NESC). Staff reviewed documents and data provided by FairPoint, including diagrams and descriptions of the crossing. Staff confirmed the information provided in the filing complies with the requirements of the NESC. The attached worksheets summarize Staff’s review.

As noted on the worksheets, the information provided by FairPoint did not verify a minimum 4 inch clearance between the proposed attachment and any conductor, cable or equipment of adjacent communications attachments at every point in the span required by NESC 235H. As this particular requirement of the NESC is not likely to affect the public rights in the waterway, rather than deny the license Staff recommends this requirement be made a condition of the license to ensure there will be no adverse impact on adjacent utility facilities.

Staff was unable to confirm whether another utility crossing at this location is licensed and also complies with the NESC. To the extent other utilities with attachments beneath or above the FairPoint attachments seek a license in the future and it is discovered that those attachments do not meet NESC requirements, FairPoint may be required to rearrange its attachments. In the event FairPoint is required for any reason to relocate an attachment, it should be required to file the proposed alteration prior to making such alteration.

### **Recommendations and Conclusions**

Based upon Staff’s analysis, the proposed crossings will not substantially affect the public rights in the waters and lands and Staff concludes that FairPoint has demonstrated a public need for the proposed crossing. Accordingly, Staff recommends that the Commission grant a license for the water crossing in Somersworth, with the following conditions:

1. FairPoint will file proposed alterations to this crossing prior to making any such alteration.
2. FairPoint maintain proper clearances between its cables and those adjacent to it at all times across the entire span pursuant to NESC 235H.

3. FairPoint construct, operate and maintain the attachments at all times in accordance with both the 2002 and 2007 editions of the NESC as required by NH Admin. Code Puc 433.01 and 1303.07.
4. FairPoint notify the Commission by letter in this docket when the temporary attachment is removed.