

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 19-024

**CONSOLIDATED COMMUNICATIONS
OF NORTHERN NEW ENGLAND COMPANY, LLC
d/b/a CONSOLIDATED COMMUNICATIONS-NNE**

**Petition for License to Temporarily Construct and Maintain Telecommunications Cable
Across the Bearcamp River in the Town of Ossipee**

Order Granting License

ORDER NO. 26,282

August 8, 2019

This order grants Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications-NNE (Consolidated), a license to temporarily relocate and maintain telephone cables over and across the public waters of the Bearcamp River in Ossipee. The Commission issues this order pursuant to RSA 371:18, which exempts Consolidated from the requirement of filing a petition and the Commission from holding a hearing, because the license is requested for the exclusive purpose of relocating facilities at the request of a state agency. In this instance, the New Hampshire Department of Transportation requested relocation of Consolidated's lines and facilities as part of a bridge replacement project.

I. PROCEDURAL HISTORY

On February 1, 2019, Consolidated filed a petition for a license for the temporary relocation (approximately two years) of existing telephone cables over and across the Bearcamp River in Ossipee, New Hampshire. Consolidated filed the petition under RSA 371:17. In support of its request, Consolidated submitted an engineering plan and photographs.

Staff filed a memorandum on April 4, 2019, in which it recommended that Consolidated's license request be granted. Commission Staff (Staff) determined that Consolidated's license request should be considered pursuant to RSA 371:18, which exempts Consolidated from filing a petition and the Commission from holding a hearing. Consolidated's request and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2019/19-024.html>.

II. SUMMARY OF REQUEST

Consolidated requested a license to relocate, operate, and maintain a 144-strand fiber and three copper cables over and across the Bearcamp River in Ossipee. Consolidated's proposed relocated cable facilities are designed to provide telecommunications service to customers in New Hampshire. The New Hampshire Department of Transportation (NHDOT) requested relocation of Consolidated's lines and facilities as part of a bridge replacement project. The existing crossing has not been previously licensed by the Commission.

A. Crossing Location and Construction

The proposed crossing is located approximately 90 feet from the State Highway Route 16 right-of-way in Ossipee. The structures, Eversource pole numbers 150D/60 and 150D/59.5, are to be relocated to a site east of NHDOT Bridge No. 137/297. Consolidated asserted that the water crossing will be constructed and maintained in accordance with the requirements of the National Electrical Safety Code (NESC).

B. Regulatory Requirements

As noted above, NHDOT requested the relocation, and Staff recommended that the request be considered under RSA 371:18, which does not require a petition or hearing for approval of a license request. That statute does not, however, relieve Consolidated from

compliance with the NESC and the applicable provisions of N.H. Code Admin. Rules Part Puc 406.

C. Property Rights

Consolidated is attaching its cables to poles owned and maintained by Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource). Eversource was recently granted a crossing license in a parallel docket.¹ In the Eversource docket, Staff confirmed that crossing structures on either side of the river are located within NHDOT rights-of-way.

D. Service to the Public and the Effect on Public Rights

According to Consolidated, the relocated cable crossing will be constructed, operated, and maintained to meet the reasonable requirements of service to the public. The relocation will continue to meet the public need, and will not adversely affect the public's use and enjoyment of the Bearcamp River. Furthermore, Consolidated stated that the new overhead crossing of the Bearcamp River has been designed and will be constructed and maintained in accordance with the NESC requirements.

III. SUMMARY OF STAFF REVIEW

Staff reviewed Consolidated's request and supporting documentation, applicable statutes, rules, NESC requirements, and land ownership status, as well as public need, safety, and relevant impacts. Staff determined that the proposed crossing relocation meets the requirements of the NESC and applicable state laws and rules, and recommended that the Commission grant Consolidated's request for a crossing license.

¹ *Public Service Company of New Hampshire d/b/a Eversource Energy*, Docket No. DE 18-178, Order No. 26,258 (June 17, 2019).

IV. COMMISSION ANALYSIS

RSA 371:18 exempts a public utility from the requirement to petition for a license to cross public waters, and the Commission from holding a hearing, if the license is requested “for the exclusive purpose of furnishing facilities to, or relocating facilities at the request of, the state, or any department or agency thereof.”² Any such crossing must “comply with the National Electrical Safety Code.” RSA 371:18. Because no hearing is required, no notice of such is required under RSA 371:19.

As stated above, the Bearcamp River is classified by the NHDES as a “public water.”³ Based on our review of Consolidated’s license request and Staff’s recommendation, we find that the proposed Bearcamp River crossing is necessary for the exclusive purpose of relocating facilities at the request of a state agency. We also find that the crossing will comply with the NESC, and therefore meets the standards set forth in RSA 371:18. We acknowledge Consolidated’s representation that the Bearcamp crossing will be exercised without substantially affecting the rights of the public in the Bearcamp River, and that the use and enjoyment of the river by the public will not be diminished in any material respect as a result of the proposed relocated crossing. We therefore grant Consolidated a license for the Bearcamp River crossing relocation, subject to the conditions contained in the ordering clauses below. We also require that notice be provided to the Town of Ossipee, the NHDOT, and the NHDES for informational purposes.

² Unlike RSA 371:17, RSA 371:18 does not require a “petition.” While this may seem like a distinction without a difference, they are different statutes with different requirements.

³ See http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm;
<https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

The license covers only the telephone cables as described in Consolidated's request, with the specifications proposed in this docket. Should Consolidated seek further modification of the licensed crossing, it must make an appropriate filing regarding that modification. Consolidated remains responsible for obtaining any and all federal, state, or local permits required by authorities having jurisdiction for the construction and installation of the proposed crossing.

Based upon the foregoing, it is hereby

ORDERED, that Consolidated is granted a license to relocate its aerial telephone cables and related facilities over and across the Bearcamp River in Ossipee, as directed by the New Hampshire Department of Transportation, in accordance with RSA 371:18; and it is

FURTHER ORDERED, that Consolidated is authorized, pursuant to the applicable portions of RSA 371:17, *et seq.*, to construct, install, operate, and maintain aerial telephone cables and related facilities over and across the Bearcamp River as described in its request and depicted in its filings and as specified in Staff's recommendation; and it is

FURTHER ORDERED, that approval is limited to the construction or alteration of the aerial telephone cables and related facilities under consideration in this docket, and is conditioned on the requirement that Consolidated construct, install, operate, and maintain those lines and facilities consistent with the applicable provisions of the National Electrical Safety Code and N.H. Code Admin. Rules Puc 406, *et seq.*, as amended from time to time, and all other applicable safety standards in existence at any relevant time; and it is

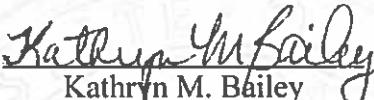
FURTHER ORDERED, that Consolidated shall submit any future proposed alteration(s) to the crossing license granted herein at least 60 days prior to undertaking any such alteration(s); and it is

FURTHER ORDERED, that Consolidated shall provide a copy of this order to (i) the Town Clerk of Ossipee, New Hampshire, (ii) the New Hampshire Department of Transportation, and (iii) the New Hampshire Department of Environmental Services, by first class mail, no later than 10 days following the issuance of this order.

By order of the Public Utilities Commission of New Hampshire this eighth day of August, 2019.



Martin P. Honigberg
Chairman

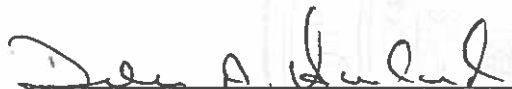


Kathryn M. Bailey
Commissioner

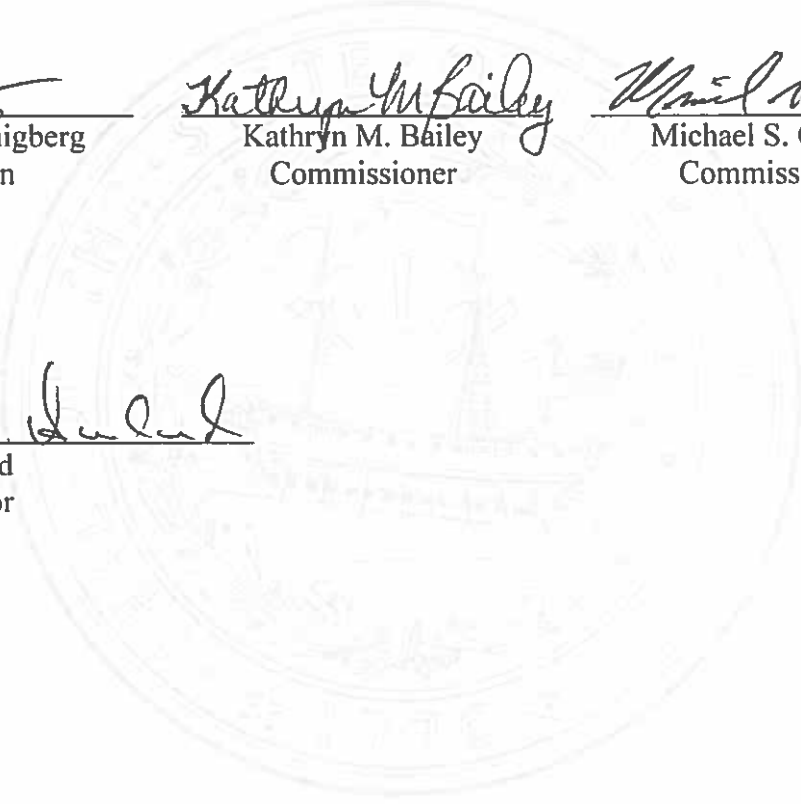


Michael S. Giaimo
Commissioner

Attested by:



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