

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 12-065

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

**Petition for License to Construct and Maintain Electric Lines
Under Lake Winnepesaukee in the Town of Alton**

Order *Nisi* Granting License

ORDER NO. 25,404

August 24, 2012

I. SUMMARY OF THE PETITION

On March 14, 2012, New Hampshire Electric Cooperative, Inc. (NHEC) filed a petition pursuant to RSA 371:17 requesting a license to relocate, reconstruct, and maintain electric cable and conduit lines under and across the public waters of Lake Winnepesaukee in the Town of Alton, New Hampshire. The petition filing included testimony of Dean Benton, Plant Supervisor and accompanying exhibits.

According to the petition, NHEC currently provides electric service to residences on Rattlesnake, Sleeper and Treasure Islands on Lake Winnepesaukee in Alton. To increase reliability and meet the reasonable requirements of service to the public, NHEC proposes to re-route the existing electric cable lines. NHEC indicates that the line to Rattlesnake Island currently feeds across Sleeper Island. The proposed rerouting would feed Rattlesnake Island directly from the mainland and also create a loop feed that will provide backup to or from any of the three islands.

Crossing Location and Construction

According to the petition, NHEC plans to construct a line from NHEC pole #14013.1/2 located in Alton, underground to the water's edge, and then underneath Lake Winnepesaukee to Rattlesnake Island. On Rattlesnake Island, the cable will again be run underground to an existing riser pole, NHEC pole #303/22 to re-feed the existing overhead line. From pole #303/22, a new underground line will be installed (in the same trench as the incoming line) out to the water's edge and then proceed along the lake bottom to Treasure Island. The cable will be buried underground on Treasure Island to existing riser pole #30304/14. The line will re-feed the existing overhead lines on the island. From pole #30304/14, a new line will be buried in the same trench as the incoming cable and will leave Treasure Island, and travel across the lake bottom to provide a new feed to Sleeper Island at pole 30304/13. From this location, the line can, if needed, re-feed the existing overhead line on Sleeper Island, providing a loop feed to the islands.

NHEC states that it also plans to construct a line from NHEC pole #14013.1/2 located in Alton, underground to the water's edge, and then underneath Lake Winnepesaukee to Sleeper Island. On Sleeper Island, the cable will again be run underground to an existing riser pole (pole #303/8) to re-feed the existing overhead line on Sleeper Island.

Regulatory Requirements

According to the petition, NHEC has obtained Wetlands and Non-Site Specific Permits from the New Hampshire Department of Environmental Services (NHDES) for the proposed project. See Exhibit F to Benton Testimony.

NHEC asserts that the design, construction and operation of the lines will be in compliance with the National Electrical Safety Code (NESC). The petition further indicates that all underground sections will be buried to a depth of 3 feet and will extend from the shore line across the lake bed in Schedule #80 PVC conduit until a water depth of 6 feet from the water line can be achieved per NHEC Construction Standard IUSUB. *See Exhibit I to Benton Testimony.* In addition, a minimum of two concrete cable covers will be installed at every shore line as described in NHEC Construction Standard U7-6B. *See Exhibit J to Benton Testimony.* The Petition states that all riser poles on the islands will be existing 35-foot, class 5 wood poles, except on Rattlesnake Island where the riser pole will be an existing 40-foot, class 4 wood pole. *See Benton Testimony.*

NHEC states that the underground cable, conduit, submarine cable and termination vault proposed in its petition will be constructed by a certified construction company contracted by NHEC that has historically proven to meet NHEC construction standards and the requirements of the NESC. NHEC asserts that post-construction inspections will be conducted by qualified divers on a cyclic basis in accordance with the inspection and maintenance practices of NHEC. *See Benton Testimony.*

Property Rights

NHEC affirms that it has obtained the necessary easements for the new crossing from Rattlesnake Island Association of Alton, Rattlesnake Island Corporation of Wolfeboro, Sleeper Island Corporation of Wolfeboro; and the owners of Treasure Island, as recorded in the Belknap County Registry of Deeds. *See Exhibits B-E to Benton Testimony.*

Public Rights in the Public Waters of Lake Winnepesaukee

NHEC submits that the license for which it has petitioned may be exercised without substantially affecting the rights of the public in the waters of Lake Winnepesaukee. NHEC further attests that the use and enjoyment by the public of the lake will not be diminished in any material respect as a result of the underground line crossing.

II. SUMMARY OF STAFF REVIEW

On behalf of Commission Staff, Accion Group (Accion) reviewed the petition and existing field conditions and submitted its recommendation on August 23, 2012. Accion found that NHEC 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. In conformity with Accion's recommendation and its own review of the petition and accompanying supporting documents, Staff recommends that the Commission approve the NHEC petition for a license to construct, operate, and maintain electric lines under and across Lake Winnepesaukee in the Town of Alton subject to the following conditions:

- 1) That underwater concrete cable covers as described in NHEC Construction Standard U7-6B be installed over the cable in water until the depth from the mean low water table (water line) is three feet with a minimum of two cable covers to be installed.
- 2) That the Commission require conformance to the conditions imposed in the NHDES Wetland and Non-Site Specific Permits contained in Exhibit F to the Benton Testimony.
- 3) That the Commission require the proposed construction be done in conformance with applicable sections of the National Electrical Safety Code C2-2012.

4) That all future alterations to the crossing that may affect the public conform to the applicable requirements of the NESC and be resubmitted to the Commission at least 60 days prior to any such alteration(s).

5) That NHEC be required to maintain and operate the crossings in conformance with the NESC or risk future revocation of the license.

Based on the Accion report and further discussion with Accion and Staff, NHEC submitted certain clarifications and corrections to its petition filing on August 24, 2012. In that filing, NHEC indicated its agreement with the recommended conditions with one modification to clarify that, to the extent it may be impractical to install a minimum of two underwater concrete cable covers within the shoreline zone, NHEC will underground the cable and utilize natural cover in lieu of concrete covers. Staff and Accion have concurred with that modification through discussions with NHEC.

III. COMMISSION ANALYSIS

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 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, include all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe. The NHDES is assigned responsibility under RSA 271:20 for preparing, maintaining, and publishing an official list of all public waters in the state. Lake Winnepesaukee in the Town of Alton is included in 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 NHEC's submissions, the report submitted by Accion, and Staff's recommendation, we find the proposed crossing necessary for NHEC to meet the reasonable requirements of reliable service to the public within NHEC'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 at issue, 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 conditions recommended by Staff. Our decision is issued on a *nisi* basis in order to provide any interested party the opportunity to submit comments on NHEC's petition or to request a hearing. Finally, inasmuch as NHDES is responsible by statute for maintaining the official list of public waters, we determine that notice of the proposed crossings to the NHDES is warranted.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2012/12-065.html>.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, NHEC is authorized, pursuant to RSA 371:17 *et seq.*, to relocate, construct, maintain and operate electric lines and conduit 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 National Electrical Safety Code, in accordance with N.H. Code Admin. Rules Puc 306.01 and Puc 1303.07 and all other applicable safety standards in existence at that time; and it is

FURTHER ORDERED, that NHEC 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 these crossings 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 these crossings be filed with this Commission; and it is

FURTHER ORDERED, that copies of all licenses or permits, if any, required by the Town of Alton for these crossings be filed with this Commission; and it is

FURTHER ORDERED, that NHEC shall provide a copy of this order to (i) the Town Clerk of Alton, (ii) the New Hampshire Attorney General and the owners of the land bordering on said public waters at the locations of the crossings, pursuant to RSA 371:19, (iii) the New Hampshire Department of Environmental Services, and (iv) the New Hampshire Department of Transportation by first class mail, no later than August 29, 2012, and to be documented by affidavit filed with this office on or before August 31, 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 August 28, 2012 and to be documented by affidavit filed with this office on or before August 31, 2012; and it is

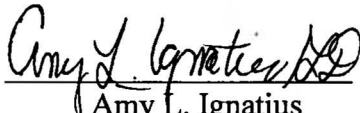
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states

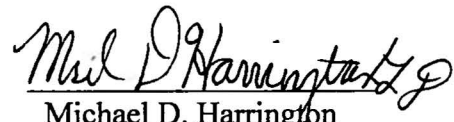
the reason and basis for a hearing no later than September 5, 2012 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than September 7, 2012; and it is


FURTHER ORDERED, that this Order *Nisi* shall be effective September 7, 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 L. Ignatius
Chairman


Michael D. Harrington
Commissioner

Attested by:


Lori A. Davis
Assistant Secretary

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

Executive.Director@puc.nh.gov
amanda.noonan@puc.nh.gov
Christina.Martin@oca.nh.gov
lynn.fabrizio@puc.nh.gov
randy.knepper@puc.nh.gov
rdunn@devinemillimet.com
Rorie.E.P.Hollenberg@oca.nh.gov
steve.mullen@puc.nh.gov
suzanne.amidon@puc.nh.gov
tom.frantz@puc.nh.gov

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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
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.