

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

NHPUC 2FEB'16PM1:15

Docket No. DT 16-____

Petition of
Northern New England Telephone Operations LLC
for Licenses to Maintain Utility Cables
Over and Across Public Lands and Waters of the State of New Hampshire

NOW COMES Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE (“FairPoint”) and hereby petitions the New Hampshire Public Utilities Commission (the “Commission”) for licenses to cross state lands or public waters, at multiple locations, as shown in the attached Exhibit 2, in accordance with RSA 371:17. In support thereof, FairPoint states as follows:

1. RSA 371:17-b, effective June 19, 2013, authorized the Commission to issue a permanent license by notification of existing crossings on existing poles. Any party seeking a license under this section was required to submit a complete list identifying the specific geographic and pole locations of each existing crossing to the Commission within two years of the effective date of the statute. Per the statute, upon receipt of such list, no further inquiries or investigations were to be undertaken and the Commission was directed to issue a final license for such crossing locations.
2. On June 17, 2015 FairPoint submitted a request for a permanent license by notification to cross state lands or public waters at 496 locations, in accordance with RSA § 371:17-b. FairPoint’s filing provided all pertinent information for each crossing to the extent such data resided in its records. The Commission docketed this filing as CRS 15-243.

3. On August 4, 2015, based on the factual representations set forth in FairPoint's filings in CRS 15-243, the Commission granted FairPoint license CR 08-001-15 to cross state lands or public waters at 80 locations.
4. Also on August 4, 2015, Commission Staff notified FairPoint as to Staff's findings on the remaining crossings listed in FairPoint's filing that were not licensed under CR 08-001-15. As noted in FairPoint's filing, 102 crossings on the list had been previously licensed so no action was required for these locations. The remaining 314 locations identified in FairPoint's filing did not appear to qualify for a license under RSA 371:17-b either because they did not include specific geographic locations, e.g., GPS coordinates on each side of a crossing, or did not include a pair of pole numbers on each side of a crossing. In subsequent discussions, Staff further clarified that RSA 371:17-b expressly authorizes the Commission to license existing crossings only attaching to existing *poles*, but not those crossings that may attach at a *manhole* or *pedestal* on one or both sides of a crossing. Accordingly, Staff advised FairPoint to supplement or revise its original filing to respond to Staffs' concerns.
5. Under separate cover, and consistent with the advice of Staff, FairPoint today is supplementing its June 17, 2015 filing in CRS 15-243 with additional GPS and/or pole numbers or comparable designation for 212 crossings ("Supplemental Filing"). FairPoint believes this information addresses Staffs' concerns that each existing crossing shall include specific GPS coordinates and "pole" numbers and should be sufficient for the Commission to issue a final license by notification for these locations pursuant to RSA 371:17-b. A copy of this supplemental filing is attached hereto as Exhibit 1. The remaining 102 locations identified in FairPoint's initial

filing in CRS 15-243 either are no longer in service, no longer cross state lands, or were duplicate entries (e.g., multiple cable facilities appearing at a single location). These were removed from the final list of crossings submitted in CRS 15-243.

6. However, as explained by Staff, 56 of the crossings listed in Exhibit 1 arguably do not qualify for licensing by notification under RSA 371-17-b because they do not attach to poles *per se* on one or both sides of the crossing. These excepted locations are designated accordingly in the Supplemental Filing and broken out separately in Exhibit 2, attached hereto, with specific GPS coordinates and/or pole, manhole, or pedestal numbers for each side of a crossing. Exhibit 2 also includes six existing locations that were inadvertently excluded from FairPoint's June 17, 2015 filing in CRS 15-243. FairPoint requests that the Commission also license these six locations pursuant to RSA 371:17.
7. To the extent that the Commission determines that the crossings listed in Exhibit 2 do not qualify for licensing by notification under RSA 371:17-b, FairPoint hereby petitions the Commission under RSA 371:17 for a license of these existing crossings. This request is made without conceding any interpretation of RSA 371-17-b,¹ and out of an abundance of caution,
8. As attested by the affidavit of Eddie Mendonca, attached hereto, to the best of FairPoint's knowledge and belief, the crossings were constructed in accordance with then applicable safety standards and are currently maintained in compliance with established safety standards as set forth in the National Electric Safety Code. Many of these crossings have been in place and functional for decades.

¹ It could be argued that that the term "pole" as used in RSA 371:17-b is meant to be used in a generic sense to represent any attachment location, such as a pedestal or manhole termination, as well as a pole.

9. These crossings are necessary to meet the reasonable requirements for service to the public. Furthermore, they have been in place for an extended period of time without complaint or detriment to the public use and enjoyment of the waterways and public lands. It thus being established that these licenses are necessary and can be issued “without substantially affecting the public rights in said waters or lands,”² this request should be granted.

WHEREFORE, FairPoint requests that the Commission grant such licenses as may be necessary under RSA 371:17 to ensure that the crossings described on the attached Exhibit 2 are permanently licensed.

Respectfully submitted,

Northern New England Telephone Operations
LLC d/b/a FairPoint Communications-NNE

Dated January 27, 2016

By _____

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² RSA 371:20.