

DT 01-068

NEON COMMUNICATIONS, INC.

Petition for License to Cross Public Waters

Order Nisi Approving Fiber Optic Cable Over and  
Across Public Waters

O R D E R    N O.    23,714

May 31, 2001

The petitioner, Neon Communications, Inc. (NEON), a company engaged in the provision of telecommunications capacity in the State of New Hampshire, filed on April 2, 2001, a petition under RSA 371:17 for authority to construct and maintain a fiber optic cable over and across public waters in the state of New Hampshire. NEON identifies the location as situated on the Nashua River in the city of Nashua, near Bridge Street. This section of the Nashua River measures approximately 176 feet in width. This is a new crossing on existing structures, below an existing Public Service Company of New Hampshire (PSNH) distribution line crossing. This PSNH crossing was previously licensed by the New Hampshire Public Utilities Commission (Commission) in 61 NHPUC 97 (1976).

RSA 371:17 defines public waters as "all ponds of more than ten acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe". The Commission has defined public waters as "those streams which are commonly used

for navigation@, 35 NHPUC 94 (1953). NEON and Staff agree the Nashua River constitutes public water.

NEON has stated that the actual minimum clearance will be twenty-six (26) feet. Therefore, NEON concluded the use and enjoyment by the public of said public waters would not be diminished in any material respect as a result of the overhead line and cable crossings.

NEON states that in order to upgrade the reliability and capacity of the fiber optic communications systems used in the Nashua area, NEON must install fiber optic cable over and across the Nashua River.

NEON proposes, at this crossing, to install an underbuilt all dielectric self-supporting fiber optic cable, known as ADSS cable.

Upon review of the filed documentation, Staff has verified that all of these clearances meet the requirements of the 1997 National Electrical Safety Code.

The Commission finds pursuant to RSA 371:17 such crossing is necessary for NEON to enhance its service to its wholesale customers and that it is therefore in the public good.

**Based upon the foregoing, it is hereby**

**ORDERED NISI** that Neon Communications, Inc. is authorized, pursuant to RSA 371:17 et seq., to construct, maintain and operate fiber optic cable over and across the public waters of the State of New Hampshire at the Nashua location described above; and it is

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

**FURTHER ORDERED,** that Neon Communications, Inc. shall cause a copy of this Order Nisi to be sent, by first class mail, to the Nashua City clerk and pursuant to RSA 371:19 a copy of this Order Nisi sent to the New Hampshire Attorney General and to such owners of lands bordering on said public waters and 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 7, 2001 and all actions to be documented by affidavit filed with this office on or before June 14, 2001; and it is

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

matter before the Commission no later than June 18, 2001; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than June 25, 2001; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective June 28, 2001, unless 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 thirty-first day of May, 2001.

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Douglas L. Patch  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Claire D. DiCicco  
Assistant Secretary