

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 15-002

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

Petition for License to Cross Public Waters of Squam Lake in Holderness

Order *Nisi* Granting License

ORDER NO. 25,786

May 8, 2015

In this Order *Nisi*, the Commission approves the New Hampshire Electric Cooperative's request for a license to construct and maintain electric lines across Squam Lake in Holderness. This order is being issued on a *nisi* basis to ensure that all interested parties receive notice of the Commission's order and have the opportunity to comment or request a hearing prior to the date set forth in the ordering clauses below.

I. SUMMARY OF PETITION

A. History

The New Hampshire Electric Cooperative, Inc. (NHEC), is a deregulated electric cooperative¹ that provides service in the Town of Holderness. NHEC filed a petition pursuant to RSA 371:17 and RSA 371:20 seeking a license to construct and maintain an electric cable and conduits across the public waters of Squam Lake in Holderness to serve a property owned by Mr. Peter Coolidge. According to the petition, the existing service is inadequate and rests on the ground across an abutter's property without the benefit of a written easement. The petition also

¹ NHEC is exempt from many aspects of Commission regulation pursuant to RSA 301:57, but it remains subject to the crossing requirements of RSA 371:17 and RSA 371:20.

asserts that a right-of-way cannot be obtained for an above-ground route from existing poles on Long Island.

NHEC supported its petition with the testimony of Dean Benton, NHEC's Plant Administrator, and a number of exhibits. The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov>.

B. Crossing Locations and Construction

According to the petition, the new crossing will begin at an existing pole on the abutter's property on Long Island, approximately 30 feet from shore. It is at this location on the abutter's property that the Coolidge service, along with lines from other Long Island residents, is connected to an existing cable that runs to the mainland. The proposed cable will travel inside a conduit beneath the ground to the lake shore then beneath the lake bed until the lake depth is at least 6 feet, approximately 55 feet from shore. At that point the cable will exit the conduit and rest on the lake bed as it travels toward the Coolidge property. As the cable returns to Long Island at the Coolidge property, it will again enter a conduit and be buried beneath the lake bed and underground on Long Island for approximately 16 feet to a new concrete vault, where the line will be connected to the Coolidge residence.

The petition states that an NHEC-approved contractor will bury the cable on shore and beneath the lake bed by trenching. The conduit will be buried while on shore and for approximately 55 feet off shore at each end of the project. The total distance of the new line is 400 feet of which 324 feet will be under or on the lake bed. NHEC will take ownership of the lines and will be responsible for their maintenance when the project is completed. NHEC

affirms that the construction will comply with NHEC standards and with the National Electrical Safety Code (NESC).

C. Property Rights

According to petition, NHEC has obtained the three easements necessary for this crossing, two on the Coolidge property and one on the abutter's land. On the Coolidge property, NHEC acquired a new easement from Mr. Coolidge, Exhibit B, and will use an existing easement from the Coolidge family, Exhibit C. NHEC will also use an existing easement on the abutter's property that permits use of the land between the NHEC pole and shore. Exhibit A.

D. Regulatory Requirements

Other than the license sought in this proceeding, which is required under RSA 371:17 to place utility services under or across the public waters of the state,² the petition states that the two required permits from the New Hampshire Department of Environmental Services (NHDES) for this project are in place, one each for the trenching off the Coolidge property and the trenching off the abutter's property. Exhibits D and E. The NHDES permits authorize the temporary impacts on shore and beneath the lake bed to facilitate construction.

E. Public Interest

Finally, NHEC asserts that the crossing is necessary to meet the reasonable requirements of service to the public, and that NHEC can exercise the rights granted by the license without affecting or diminishing the rights of the public to use and enjoy Squam Lake. NHEC explains that the existing service is not properly sized and does not allow NHEC to provide reasonable electrical service to the Coolidge property. When the project is finished, NHEC states that the

² Squam Lake is covered by the statute because it is larger than 10 acres.

electric line and conduit will be buried underground and in the lake in a way that will not interfere with the public's use of Squam Lake. NHEC reports that it has more than 50 similar installations within its service territory.

II. SUMMARY OF STAFF REVIEW

Staff confirmed that NHEC obtained necessary approvals from NHDES, that NHEC has the necessary easements and plans to build the new structures within its right-of-way, and that the proposed construction satisfies NESC and Commission rules. Staff also considered the public need and possible public impact. Based on its review Staff recommended that the Commission approve NHEC's petition with the following three conditions: (1) that the proposed electric line comply with NESC C2-2012 (Part 3 sections 30-37); (2) that any future alterations to the proposed electric facilities meet applicable sections of the NESC in effect at the time of the alteration and that requests for such alterations be submitted to the Commission for its consideration at least 60 days prior to the start of construction; and (3) that the project comply with the conditions imposed by the NHDES permits included in the petition.

III. COMISSION ANALYSIS

RSA 371:17 requires a license from the Commission before constructing and maintaining "a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of this state." The petitioner must demonstrate the crossing is "necessary ... to meet the reasonable requirements of service to the public." *Id.* Squam Lake is on NHDES's list of public waters. See des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf. If NHEC demonstrates that its proposed crossing is "necessary" under RSA 371:17, then

RSA 371:20 authorizes the Commission to grant a license if it “may be exercised without substantially affecting the public rights in said waters.”

Based on the information presented in NHEC’s filing and Staff’s memorandum, we find that the proposed crossing of Squam Lake is necessary for NHEC to meet the reasonable requirements of electric service to the public as required by RSA 371:17, and that the requested license may be exercised without substantially affecting the public rights in the lake as required for approval under RSA 371:20. We find the crossing is in the public good and therefore approve the petition subject to the three conditions recommended by Staff. Our decision is issued on a *nisi* basis to provide any interested party the opportunity to submit comments on NHEC’s petition or to request a hearing.

We note that NHEC is responsible for obtaining any and all other permits for the construction and installation of the proposed crossing from federal, state, and local authorities having jurisdiction. As recommended by Staff, our approval is only for electric structures and lines with the specifications proposed by NHEC in this docket. Finally, because NHDES is responsible by statute for maintaining the official list of public waters, we require NHEC to provide notice of the proposed alterations to NHDES. We also require that notice of the crossing be sent to the Town of Holderness.

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 construct, install, operate, and maintain the wires, towers, and fixtures thereon over the public waters described in its petition and filings; and it is

FURTHER ORDERED, that the construction of the line shall be implemented as depicted in the petition documents; and it is

FURTHER ORDERED, that this approval is limited to the structures and wires under consideration in this docket and it is conditioned on the requirement that NHEC constructs, installs, operates, maintains, and, if applicable, alters the crossing consistent with the provisions of the National Electrical Safety Code, and in accordance with N.H. Code Admin. Rules Puc 306.01, as may be applicable, and as amended from time to time; and it is

FURTHER ORDERED, that NHEC shall submit any future proposed alteration to the crossing licenses granted herein at least 60 days prior to any such alteration; and it is

FURTHER ORDERED, that, to the extent not already filed, NHEC shall file copies of all permits or agreements, if any, required by NHDES, any other federal, state, or local authorities, and any of the affected municipalities for the crossing, no later than receiving the permit or entering into the agreement, or 30 days from the effective date of this Order *Nisi*, whichever occurs first; and it is

FURTHER ORDERED, NHEC shall provide a copy of this Order *Nisi* to (i) the Town Clerk of Holderness, New Hampshire; (ii) the New Hampshire Attorney General, (iii) the owners of the land bordering on said public waters at the locations of the crossing, pursuant to RSA 371:19; and (iv) the New Hampshire Department of Environmental Services, by first class mail, no later than May 18, 2015, to be documented by affidavit filed with this office on or before June 3, 2015; and it is

FURTHER ORDERED, that NHEC shall cause the summary 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 May 18, 2015, and to be documented by affidavit filed with this office on or before June 3, 2015; 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 May 26, 2015, 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 June 1, 2015; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective June 8, 2015, unless NHEC fails to satisfy the publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the Order *Nisi*'s effective date.

By order of the Public Utilities Commission of New Hampshire this eighth day of May, 2015.

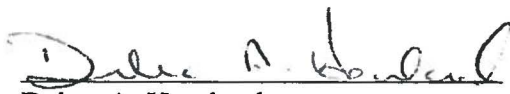


Martin P. Honigberg
Chairman



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director