

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 15-370**

**NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.**

**Petition for License to Cross Public Waters of  
Lake Winnepesaukee in the Town of Tuftonboro**

**Order *Nisi* Granting License**

**ORDER NO. 25,873**

**March 22, 2016**

In this order *nisi*, the Commission grants the request of New Hampshire Electric Cooperative, Inc. (NHEC or the Company), for a license to re-construct and maintain electric cable and conduits under and across Lake Winnepesaukee in Tuftonboro, New Hampshire. 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 for comment in the ordering clauses below.

**I. SUMMARY OF PETITION**

On September 3, 2015, NHEC filed a petition pursuant to RSA 371:17, *et seq.*, for a license to construct and maintain electric cable and conduits under the public waters of Lake Winnepesaukee in Tuftonboro, New Hampshire. The petition was accompanied by pre-filed testimony of Dean Benton, NHEC Plant Records Administrator. NHEC also filed supporting attachments, maps, and exhibits with the petition.

According to NHEC, the re-constructed electrical cable and conduits are necessary to provide electric service to single private residences located on each of the Twin Islands. The new electric cable will tie into two existing meters on a post located on the most easterly Twin

Island. NHEC indicated that the line currently serving Twin Islands was damaged during the 2014-2015 winter by lake ice and would need to be replaced before the coming winter and that a new electric line is necessary. NHEC asserted that it is necessary for the Company to re-construct a distribution line to the shore of, and lay cable under, Lake Winnepesaukee to the eastern most Twin Island in order to meet the reasonable requirements of service to the public. NHEC stated that, if the line is not constructed, then the existing residences on the Twin Islands will be unable to continue receiving service from the Company.

NHEC provided Commission Staff (Staff) with supplemental information during the course of Staff's review. The petition, pre-filed testimony and supporting documents, together with any subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2015/15-370.html>.

***A. History***

The original line crossing under Lake Winnepesaukee was granted to NHEC by Order No. 11,753 dated February 28, 1975, in Docket No. DE 75-30. *See Re New Hampshire Electric Cooperative, Inc.*, 60 NHPUC 358 (1975).

***B. Crossing Location and Construction***

NHEC stated that a Company-approved contractor will replace the damaged line with a 7,200-volt submarine cable that will run underground from existing NHEC Pole #16503.2/7 located on property owned by the Paveglio Trust, Tax Map 2, Lot 66 (on Allen Road in the Melvin Village section of Tuftonboro), to the water's edge. According to Staff, the cable will extend through a Schedule 80 PVC conduit for approximately 98 feet from this pole in a trench approximately 36-40 inches deep to the water's edge, at which point the conduit will extend

below the lake bed using shallow trenching. This trench will be covered by concrete pads to a point where the underwater depth is 6 feet at mean high water. At that point the heavily insulated submarine cable will exit the conduit and continue for a distance of approximately 1,700 feet on the lake floor. Where the cable approaches the shore at the Hart Realty Trust property on the eastern most Twin Island, the cable will enter a similarly trenched and constructed conduit, protected by a concrete pad up to the shore line. The cable will then continue underground to concrete pad No. 16503.2/7.1. There, the line will be connected to the meters for service to the residences on each island. NHEC asserted that when the project is complete, it will take possession of and maintain the cable.

Testimony submitted in support of the petition stated that work associated with the crossing will be in compliance with the National Electrical Safety Code (NESC). In addition, the Company indicated that it has successfully used this type of installation, with the submarine, aluminum conductor, size 1/0, Triplex insulated cable and conduits in multiple other installations.

### ***C. Regulatory Requirements***

NHEC asserted that it obtained Shoreland Permit by Notification No. 2015-01976 (associated with the Paveglio Trust property on Allen Road) from the New Hampshire Department of Environmental Services (NHDES) for this construction. At the time it filed the Petition, the Company also had two pending wetlands permit applications filed with NHDES (2015-01966 and 2015-01979 for the Paveglio and Hart Realty trust properties, respectively). Staff's investigation revealed that the applications were subsequently approved by the NHDES, authorizing temporary impacts to onshore and beneath the lake bed to facilitate construction. The permits will expire on September 23, 2020.

***D. Property Rights***

According to testimony, the Company will use the existing rights-of-easement for access to the Paveglio Trust property and the Hart Realty Trust property.

***E. Public Interest***

NHEC asserted the installation is necessary to serve its customers on the Twin Islands and affirmed that there are no abutters that will be affected by this water crossing. Testimony stated that because of the long distance of 1,700 feet, an overhead line was not considered and that the submarine cable was the only feasible solution.

**II. SUMMARY OF STAFF REVIEW**

Safety Division Staff reviewed the Company's petition and supporting documentation, applicable statutes, rules, NESC requirements, ownership of the land, public need, safety, and impact. Staff's recommendation confirmed this project will replace existing cable that has been in place since 1975, and that damage caused by ice during the winter 2014-2015 period required an immediate temporary fix. The new cable installation will permanently replace the damaged service line and will meet all current safety standards. Staff referenced the NHEC project components, materials, and certified contractors that were identified in the petition, as well as the applicable safety and construction standards. Based on all of the information provided by NHEC, Staff concluded that the project would enhance the safety of the public without substantially affecting the public rights in said waters or lands. Staff recommended approval of the Company's petition for a license to construct, operate, and maintain electric cables and facilities under and across the public waters of Lake Winnepesaukee in the Town of Tufonboro, as proposed in the petition, with the following conditions:

- a. That the Commission require future alterations to be submitted at least 60 days prior to the start of construction, and that the alterations meet the applicable sections of the NESC in effect at the time the alterations are made; and
- b. That conformance to the conditions imposed by the DES Wetlands and Non-Site Specific Permits included in the petition is required.

*See* Recommendation of Robert Wyatt dated February 29, 2016.

### **III. COMMISSION ANALYSIS**

Pursuant to RSA 371:17, Licenses for New Poles, utilities must obtain a license from the Commission to “construct a pipeline, cable, or conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of this state, or over, under or across any of the land owned by this state,” when such facilities are necessary “to meet the reasonable requirements of service to the public . . . .” RSA 371:20 authorizes the Commission to grant a license if it “may be exercised without substantially affecting the public rights in said waters or lands . . . .” RSA 371:17 defines public waters to include “all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe.” NHDES prepares, maintains and publishes an official list of all public waters in the state. The body of water listed in the instant petition is included in the official list, which is electronically maintained at:

[http://des.nh.gov/organization/divisions/water/dam/public\\_waters/index.htm](http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm).

Based on the information presented in NHEC’s petition and Staff’s recommendation, we find that the proposed crossing is necessary for NHEC to meet the reasonable requirements of reliable 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 affected public waters, as required for approval under RSA 371:20. NHEC has confirmed that the crossing will be

constructed, operated, and maintained in compliance with the National Electrical Safety Code. We find that the crossing is in the public good. We therefore approve the petition subject to the conditions contained in the ordering clauses set out below related to ensuring safe construction, operation, and maintenance of the proposed crossing. We issue our decision on a *nisi* basis to provide any interested person 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 any federal, state, and local authorities having jurisdiction. Our approval is only for the electric lines proposed by NHEC in this docket. Because NHDES is responsible for maintaining the official list of public waters, we require that notice of the proposed alterations be sent to NHDES. We also require notice to be provided to the Town of Tuftonboro and to the private property owner(s) from whom a right-of-way was sought and obtained.

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

**ORDERED *NISI***, that subject to the effective date below, NHEC is authorized pursuant to RSA 371:17 to construct, install, operate, and maintain electric lines under and across the public waters described in its petition and depicted in its 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 construction or alteration of electrical lines under consideration in this docket, and it is conditioned on the requirement that NHEC constructs, installs, operates and maintains, and, if applicable, alters the lines consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Code Admin

Rules Puc 306.01, as may be applicable and as amended from time to time, and all other applicable safety standards in existence at that time; and it is

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

**FURTHER ORDERED**, that NHEC shall provide a copy of this Order *Nisi* to (i) the Town Clerk of Tuftonboro, New Hampshire; (ii) the New Hampshire Attorney General and all owners of the land bordering on said public waters at the location of the crossing, as required by RSA 371:19; and (iii) the New Hampshire Department of Environmental Services, no later than April 1, 2016 and to be documented by affidavit filed with this office on or before April 18, 2016; and it is


**FURTHER ORDERED**, that NHEC shall cause a summary of this Order *Nisi*, issued concurrently with this Order, 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 April 1, 2016, and to be documented by affidavit filed with this office on or before April 18, 2016; and it is

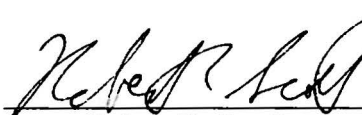
**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than April 7, 2016, for the Commission's consideration; and it is

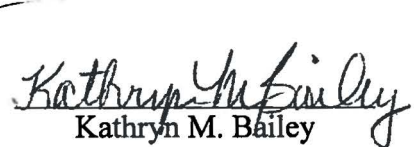
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than April 14, 2016; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective April 21, 2016, unless NHEC 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-second day of March, 2016.

  
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Martin P. Honigberg  
Chairman

  
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Robert R. Scott  
Commissioner

  
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Kathryn M. Bailey  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director