

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 16-849

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

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

Order *Nisi* Granting License

ORDER NO. 26,023

June 12, 2017

In this order *nisi*, the Commission grants the petition of the New Hampshire Electric Cooperative, Inc. (NHEC), for a license to reconstruct and maintain electric cable and conduit under Lake Winnepesaukee, from Mark Island to Mink Island, in the town of Gilford, 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 before the order becomes effective.

I. SUMMARY OF PETITION

On November 9, 2016, NHEC filed a petition pursuant to RSA 371:17 for a license to reconstruct and maintain an electric cable and conduit under Lake Winnepesaukee in Gilford. In support of its petition, the Company filed testimony of Dean Benton, NHEC's Plant Administrator.

Mink Island is in Lake Winnepesaukee. It lies within NHEC's service territory and currently has 18 residences. The cable providing electric service to Mink Island from Mark Island contains a deteriorating neutral that could cause voltage problems in the future if not replaced. NHEC intends to replace the line from an existing pole on Mark Island running

underneath Lake Winnepesaukee to Mink Island. According to the petition, if the line is not replaced, NHEC will be unable to continue to provide electric service to the residents of Mink Island and that in order to meet the reasonable requirements of service to the public, it is necessary that NHEC reconstruct and lay a distribution line under Lake Winnepesaukee from Mark Island to Mink Island.

NHEC filed supporting attachments and exhibits with the petition. The petition and 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/2016/16-849.html>.

A. History

In 1974, the Commission granted NHEC's petition to construct and maintain an underwater cable across Lake Winnepesaukee from Mark Island to Mink Island. Order No. 11,579, DE 74-168 (September 30, 1974).

B. Crossing Location and Construction

A contractor approved by NHEC will replace the deteriorating line with a new cable from NHEC Pole #11528/17 located on the property of Richard Melvin, Tax Map 245, Lot 8 on Mark Island, to the water's edge; and then underneath Lake Winnepesaukee for an approximate distance of 640 feet, coming to shore on Mink Island, onto the property of Joanne Pike and Greg M. Dickinson, Tax Map 245, Lot 29. The cable will then be placed underground running to a concrete vault, #11528/18, ultimately providing electric service to all of Mink Island. The conduit, submarine cable, and termination vault will be reconstructed by a contractor selected from an NHEC approved listing. All the contractors on the list have been proven to comply with

NHEC construction standards and the National Electrical Safety Code (NESC). The design, construction, and operation of the line will be in compliance with the NESC. The new facilities will consist of a 7,200 volt submarine cable with aluminum conductor, size 1/0, and Triplex insulation with an insulation thickness of 1.720 inches. NHEC provided a location map, a project plan schematic, and construction details in its petition documents.

C. Regulatory Requirements

NHEC provided two Wetlands and Non-Site Specific Permits issued by the New Hampshire Department of Environmental Service (NHDES) authorizing the reconstruction. The two NHDES permits were issued October 26, 2016, and will expire on October 26, 2021.

D. Property Rights

NHEC owns two existing rights-of-way of relevance: an easement recorded in the Belknap County Registry of Deeds, Book 635, Page 423, allowing NHEC to reconstruct the line over and under the Melvin property; and an easement recorded in Belknap County Registry of Deeds, Book 3019, Page 190, allowing NHEC to reconstruct the line over and under the Pike and Dickinson property. NHEC will use these existing easements for the reconstruction proposed in this case.

E. Public Necessity

NHEC submitted that if this line is not constructed, the existing residences on Mink Island will be unable to continue to receive service from NHEC. Thus, according to NHEC, in order to meet the reasonable requirements of service to the public, it is necessary that the NHEC approved contractor reconstruct a distribution line to the shore of and lay cable under Lake Winnepesaukee from Mark Island to Mink Island.

II. SUMMARY OF STAFF REVIEW

Staff reviewed the Company's petition and supporting documentation, applicable statutes, rules, and NESC requirements, ownership of the land, as well as public need, safety, and impact. In a Memorandum filed on May 17, 2017, Randy Knepper, Director of Safety and Security in the Commission's Safety Division, recommended approval of the Company's petition subject to three conditions. First, any future alterations to the proposed facilities must meet the NESC in effect at the time of the alteration. Second, any requests for alterations must be submitted to the Commission at least 60 days prior to the start of construction. Third, NHEC must conform to the conditions imposed by the NHDES permits referenced above.

III. COMMISSION ANALYSIS

Pursuant to RSA 371:17, anyone wishing 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," that is necessary to meet the reasonable requirements of service to the public, must obtain a license from the Commission. RSA 371:20 authorizes the Commission to grant a license if it finds that the license "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 that the Commission may prescribe. The NHDES prepares, maintains, and publishes an official list of all public waters in the state. Lake Winnepesaukee, the body of water listed in NHEC's petition, is included on 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 petition documents and Staff's recommendation, we find that the proposed crossing is necessary for NHEC to meet the reasonable requirements of service to the public, as required by RSA 371:17. Because this project involves reconstruction of an existing cable that will not be materially different after the reconstruction is complete, we find 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 is in compliance with the NESC. We therefore approve the petition subject to the conditions contained in the ordering clauses set out below to ensure 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. Because the NHDES is responsible for maintaining the official list of public waters, we require that notice of the proposed crossing be sent to NHDES. We also require notice to be provided to the Office of the Attorney General, the Town of Gilford, and to the owner(s) of property that the cable and conduit will cross.

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 reconstruction 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, *et seq.*, 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 to the Commission any future proposed alterations to the crossing license granted herein at least 60 days prior to undertaking any such alterations; and it is

FURTHER ORDERED, that NHEC shall provide a copy of this Order *Nisi* to the (i) Town Clerk of Gilford, New Hampshire; (ii) the New Hampshire Attorney General; (iii) all owners of the land bordering on said public waters at the location of the crossing, as required by RSA 371:19; and (iv) the New Hampshire Department of Environmental Services, no later than June 19, 2017, and to be documented by affidavit filed with this office on or before June 30, 2017; 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 occur no later than June 19, 2017, and to be documented by affidavit filed with this office on or before June 30, 2017; 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 June 26, 2017, for the Commission's consideration; and it is

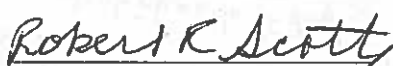
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than June 29, 2017; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective June 30, 2017, 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.

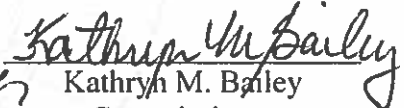
By order of the Public Utilities Commission of New Hampshire this twelfth day of June, 2017.



Martin P. Honigberg
Chairman

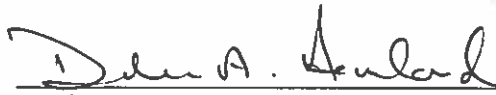


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director