

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 17-080**

**NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.**

**Petition for License to Cross Lake Winnepesaukee  
in the Town of Meredith**

**Order *Nisi* Granting License**

**ORDER NO. 26,054**

September 8, 2017

In this order *nisi*, the Commission grants the petition of New Hampshire Electric Cooperative, Inc. (NHEC), for a license to construct and maintain electric lines under Lake Winnepesaukee in Meredith, 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. INTRODUCTION**

On May 12, 2017, NHEC filed a petition pursuant to RSA 371:17 for a license to construct and maintain an electric cable and conduit under the public waters of Lake Winnepesaukee in Meredith, New Hampshire. The construction plan includes the replacement of existing electric cable with approximately 1,785 feet of new electric cable. NHEC submitted the pre-filed direct testimony of Dean Benton, NHEC Plant Administrator, along with a layout of the proposed electric line and diagrams containing construction details and material specifications. NHEC also provided Commission Staff (Staff) with supplemental information during the course of Staff's review.

On August 8, 2017, Staff recommended that the license be granted. The petition, its attachments, Staff's recommendation, and other docket filings, excluding any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2017/17-080.html>.

## **II. SUMMARY OF PETITION**

### **A. History**

The petition states that NHEC previously constructed and currently operates and maintains an electric cable under the waters of Lake Winnepesaukee to Bear Island. The Commission granted NHEC a license for that crossing in 1973. *New Hampshire Electric Cooperative, Inc., Grant of License to Install a Submarine Electric Cable*, 58 NH PUC 106, 107 (1973). At that time, the Commission granted NHEC a license to construct and maintain underwater cables across Lake Winnepesaukee from what is now NHEC pole #115/186<sup>1</sup> on property along Cattle Landing Road in the Town of Meredith to private property on Bear Island in order to provide service to the Bakers and others. *Id.*

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

The proposed crossing would begin at NHEC Pole #115/186, which is located on town-owned property along Cattle Landing Road (Meredith Tax Map U33, Lot 25). Approximately 40 feet of 7,200 volt submarine cable will be buried inside 4-inch Schedule 80 PVC conduit with 4-inch, 90° galvanized steel sweeps in a trench about 36 to 40 inches deep from the pole to the shore of Lake Winnepesaukee. Shallow trenching and direct burial will then be used to install the cable and conduit below the lake bed. At least two ASTM C39-72 concrete covers will be applied to

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<sup>1</sup> This pole was originally NHEC Pole #46/18.

protect the cable and conduit until the depth of the water reaches 6 feet at mean high water. Approximately 1,550 feet of underwater cable will be used to reach the most westerly side of Bear Island, where the cable will come ashore onto property owned by Sheila T. Gregg (Meredith Tax Map I06, Lot 7). At that point, an additional 200 feet of cable and conduit will be buried underground leading to NHEC pole #11525/33.

### **C. Regulatory Requirements and Property Rights**

The Town of Meredith authorized NHEC to go forward with this project. The New Hampshire Department of Environmental Services (NHDES) issued two Wetlands and Non-Specific Site permits, one that will allow NHEC to temporarily disturb the lake bed and bank on the Town of Meredith property located next to Cattle Landing Road, and another that will allow NHEC to temporarily disturb the lake bed and bank on Bear Island. Those permits expire on May 7, 2022.

An existing pole license grants NHEC access to the Town property containing NHEC Pole #115/186. NHEC has the right to enter the Gregg property on Bear Island pursuant to an existing easement granted on October 8, 1973.

### **D. Necessary for Service to the Public**

NHEC submits that the existing electric cable has a deteriorating neutral that could cause voltage problems in the future if it is not replaced. Furthermore, NHEC states that replacement of the existing electric cable is necessary to ensure continued service to 158 of its customers on Bear Island and the additional six islands beyond Bear Island that are also served by the cable. Those other islands are Mark Island, Mink Island, Jolly Island, Dollar Island, Birch Island, and Steamboat Island. NHEC asserts that the work described in the petition is necessary in order to meet the reasonable requirements of service to the public.

In response to a Staff Data Request, NHEC stated that the new electric cable will be installed in the same location as the existing electric cable, which has been in place for 43 years. NHEC is not aware of any public rights issues having arisen with regard to the existing electric cable, and it does not expect any public rights issues to arise when the cable is replaced. NHEC states that it can exercise the rights granted by the license being sought without substantially affecting the rights of the public in Lake Winnepesaukee.

#### **E. Summary of Staff Review**

Staff reviewed NHEC's petition and supporting documentation, applicable statutes, rules, and National Electrical Safety Code (NESC) requirements, and ownership of the land, as well as public need, safety, and impact of the proposed crossing. In a memorandum filed on August 8, 2017, Staff recommended approval of NHEC's petition subject to two conditions. First, any future alterations to the proposed electric 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.

### **III. COMMISSION ANALYSIS**

“Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should 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, it shall petition the commission for a license to construct and maintain the same.” RSA 371:17. The Commission is authorized to grant such a license if it “may be exercised without substantially affecting the public rights in said waters or lands.” RSA 371:20.

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

Based on the information presented in NHEC's petition and attachments and in 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 the replacement of an existing cable, 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 will be 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 crossings be sent to NHDES. We also require notice to be provided to the Office of the Attorney General, the Town of Meredith,

and to the private property owner(s) of property bordering on Lake Winnepesaukee at the location of the crossing.

**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 conditioned on the requirement that NHEC construct, install, operate, and maintain, and, if applicable, alter 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 Meredith, 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 September 18, 2017, and to be documented by affidavit filed with this office on or before October 2, 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 September 18, 2017, and to be documented by affidavit filed with this office on or before October 2, 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 September 25, 2017, for the Commission's consideration; and it is

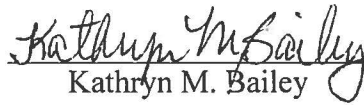
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than October 2, 2017; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective October 6, 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 eighth day of September,  
2017.



Martin P. Honigberg  
Chairman

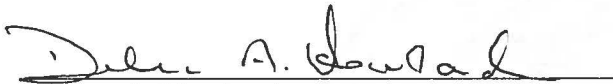


Kathryn M. Bailey  
Commissioner



Michael S. Giaimo  
Commissioner

Attested by:



Debra A. Howland  
Executive Director