

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DT 18-027

NORTHERN NEW ENGLAND TELEPHONE OPERATIONS, LLC d/b/a
CONSOLIDATED COMMUNICATIONS - NNE

Petition for License to Construct and Maintain Telecommunications Cable Over and
Across the Upper Ammonoosuc River in Dummer

Order *Nisi* Granting License

ORDER NO. 26,169

August 14, 2018

In this order, the Commission grants Consolidated Communications a license to modify an existing telecommunications cable over and across the public waters of the Upper Ammonoosuc River in the Town of Dummer. This order is being issued on a *nisi* basis to ensure that all interested parties receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On February 28, 2018, Northern New England Telephone Operations, LLC d/b/a Consolidated Communications – NNE (Consolidated Communications or the Company), filed a petition pursuant to RSA 371:17 seeking a license to modify an existing overhead telecommunications cable. The line spans the Upper Ammonoosuc River, north of the Old Route 110 bridge (the Bridge), in Dummer. In support of its petition, Consolidated Communications submitted a plan and profile drawing, an aerial view of the existing and proposed crossing locations, and a summary sheet identifying the existing pole attachment license and details of the proposed crossing.

Commission Staff (Staff) filed a memorandum on May 30, 2018, recommending that the Commission grant the license. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <http://www.puc.state.nh.us/Regulatory/Docketbk/2018/18-027.html>.

II. SUMMARY OF PETITION

To accommodate a rehabilitation project, Consolidated Communications seeks to relocate an existing telecommunications cable, spanning the Upper Ammonoosuc River in Dummer, from existing poles on the northern side of the Bridge to two new poles on its southern side.

A. History, Crossing Location, and Construction

The existing poles are jointly owned by Consolidated Communications and Public Service Company of New Hampshire d/b/a Eversource Energy, and the existing cable was approved through License No. 305670. The proposed crossing will span the Upper Ammonoosuc River, adjacent to and alongside the Bridge, between two new wooden pole structures, numbered 104/2 and 104/3. The proposed crossing will be located approximately 15 feet south of the Bridge and will span approximately 160 feet between the two new poles.¹ Consolidated Communications asserted the telecommunications cable line modification will be constructed and maintained in accordance with the National Electrical Safety Code (NESC).

¹ Public Service Company of New Hampshire d/b/a Eversource Energy also requested and received a license to modify an existing electric line, which involves relocating Pole Numbers 104/2 and 104/3 to the southern side of Route 110. See *Public Service Company of New Hampshire d/b/a Eversource Energy*, Order No. 26,167 (August 2, 2018).

B. Regulatory Requirements

The proposed pole relocation has been or will be re-licensed by the applicable roadway authority. *See Public Service Company of New Hampshire d/b/a Eversource Energy*, Order No. 26,167 (August 2, 2018) at 2.

C. Property Rights

Proposed new poles 104/2 and 104/3 will be located within the existing right-of-way of Old Route 110, a Class V highway owned and managed by Dummer.

D. Service to the Public and Effect on Public Rights

Consolidated Communications states that the proposed crossing is designed to provide telecommunications service to its New Hampshire customers. The Company further asserts the proposed crossing will not adversely affect public rights on the Upper Ammonoosuc River, and will not substantially affect the public use and enjoyment of the waterway. Consolidated Communications calculated its clearance requirement using the 100-year flood level, a more conservative analysis than the NESC 10-year flood elevation requirement.

III. SUMMARY OF STAFF REVIEW

Staff reviewed Consolidated Communications' petition and supporting documentation, applicable statutes, rules, NESC requirements, land ownership, as well as public need, safety, and impacts associated with the proposed crossing. Staff determined that the proposed construction meets the requirements of applicable state statutes and rules and recommended approval of the petition.

IV. 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, ... 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. The New Hampshire Department of Environmental Services (NHDES) has classified the Upper Ammonoosuc River as a “public water.”²

Based on the petition and Staff’s recommendation, we find that the proposed crossing is necessary to meet the reasonable requirements of reliable service to the public, as required by RSA 371:17. We further find that the requested license may be exercised without substantially affecting the public rights in the Upper Ammonoosuc River, as required for approval under RSA 371:20. Therefore, we approve the petition subject to the conditions contained in the ordering clauses below. We issue our decision on a *nisi* basis to provide any interested person the opportunity to submit comments or request a hearing.

This approval is only for the telecommunications cable with the specifications proposed in this docket. Should Consolidated Communications seek future modifications, it must make the appropriate filing. Consolidated Communications is responsible for obtaining any necessary

² NHDES prepares, maintains, and publishes an official list of all public waters in the state. *See* <https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

easements, and any and all federal, state, and local permits required by authorities having jurisdiction for the construction and installation of the proposed crossing.

Consolidated Communications shall also provide notice to Dummer, NHDES, the Office of the Attorney General, and all owners of land bordering the crossing pursuant to RSA 371:19.

Based upon the foregoing, it is hereby

ORDERED *NSI*, that subject to the effective date below, Consolidated Communications is authorized, pursuant to RSA 371:17, *et seq.*, to construct, install, operate, and maintain a telecommunications cable over and across the Upper Ammonoosuc River as described in its petition and depicted in its filings in this docket; and it is

FURTHER ORDERED, that this authorization is limited to the construction or alternation of telecommunications cable under consideration in this docket, and is conditioned on the requirement that Consolidated Communications construct, operate, and maintain, and, if necessary, alter the cable consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Code Admin. Rules Puc 406, *et seq.*, as may apply, and as amended from time to time, and all other applicable safety standards in existence at that time; and it is

FURTHER ORDERED, that Consolidated Communications shall apply for and obtain all necessary state and local permits or approvals and secure all necessary easements prior to the commencement of work on this project; and it is

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

FURTHER ORDERED, that Consolidated Communications shall provide a copy of this order to (i) the Town Clerk of Dummer; (ii) the New Hampshire Attorney General and all owners of the land bordering on public waters at the location of the crossing, as required by RSA 371:19; and (iii) NHDES, by first class mail, no later than August 24, 2018, to be documented by affidavit filed with this office on or before September 11, 2018; and it is

FURTHER ORDERED, that Consolidated Communications shall cause a summary of this order, 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 August 24, 2018, and to be documented by affidavit filed with the Commission on or before September 11, 2018; and it is

FURTHER ORDERED, that all persons interested in responding to this order 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 August 31, 2018, 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 September 7, 2018; and it is

FURTHER ORDERED, that this order shall be effective September 15, 2018, unless Consolidated Communications fails to satisfy the publication obligations 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 fourteenth day of August, 2018.



Martin P. Honigberg
Chairman



Kathryn M. Bailey
Commissioner

Michael S. Giaimo
Commissioner

Attested by:



Lori A. Davis
Assistant Secretary