

DE 06-140

NEW HAMPSHIRE ELECTRIC COOPERATIVE

**Petition for License to Construct and Maintain Electric Submarine Cable Under the Public
Waters of Lake Winnipesaukee in the Towns of Moultonborough and Tuftonboro**

Order *Nisi* Granting License

O R D E R N O. 24,704

November 27, 2006

On October 2, 2006, the New Hampshire Electric Cooperative, Inc. (NHEC) filed a petition with the New Hampshire Public Utilities Commission (Commission) pursuant to RSA 371:17 for a license to construct and maintain electric lines under Lake Winnipesaukee from Whortleberry Island in Tuftonboro to Pistol Island in Moultonborough. According to the petition, there currently are no electrical lines serving Pistol Island. NHEC states that Michael Rogers owns the single residence and all property on Pistol Island and that Pistol Island is within NHEC's authorized franchise service territory. NHEC maintains that if this line is not constructed, the existing residence on Pistol Island will be unable to obtain electrical service from NHEC.

In support of its Petition, NHEC submitted the testimony of Dean Benton, plant manager for NHEC, and related exhibits as follows: a layout plan of the proposed construction (Exhibit A); easements for construction of facilities on Pistol and Whortleberry Islands executed by Mr. Rogers (Exhibits B and B1, respectively); an approved Department of Environmental Services (NHDES) Wetlands and Non-Site Specific Permit No. 2006-02059 for the Whortleberry Island construction executed by Mr. Rogers and, I. C. Reed & Sons, Inc. (Reed & Sons) (Exhibit C); an approved NHDES Wetlands and Non-Site Specific Permit No. 2006-01917 for the Pistol Island

construction also executed by Mr. Rogers and Reed & Sons (Exhibit D); specifications for the selected cable (Exhibit E); a description of the installation materials provided by NHEC (Exhibit F); a description of the underwater cable cover (Exhibit G); NHEC Construction Standard URD-1 (Exhibit H); and construction standards for single phase riser bracket construction (NHEC Construction Standard U1) (Exhibit I).

NHEC testified that it currently has 51 similar installations within its service territory. NHEC offered that NHEC and Reed & Sons will perform the construction for Mr. Rogers and that ownership of the facilities will be turned over to NHEC upon completion of construction. NHEC attested that Reed & Sons is a proven certified construction company of NHEC and that NHEC will inspect the cable prior to energizing the cable. NHEC stated that the submarine cable will be of Hendrix manufacture, Tree Retardant Cross-linked Polyethylene insulation, and will consist of one aluminium 1/0 conductor, more particularly described in Exhibit E.

NHEC testified that the plan involves the construction of the underground cable from existing NHEC pole No. 14655/2 on Whortleberry Island for a distance of about 200 feet to the water's edge. The crossing will then proceed underneath Lake Winnipesaukee for a distance of about 2,500 feet to Pistol Island, and then underground for a distance of about 10 feet where it will terminate in the new NHEC concrete vault No. 14655/2.1. NHEC plans that trenching at each shoreline installation will include environmental mitigation in the form of silt fence construction in accordance with NHEC Construction Standard URD-1 (Exhibit H). Construction of the riser at NHEC pole No. 14655/2 on Whortleberry Island will be in accordance with NHEC Construction Standard U1 (Exhibit I).

NHEC asserts that the existing NHEC 7,200 primary distribution facilities are typically loaded to 30 amperes and have a 100 ampere capability. According to NHEC, the addition of a single 200 ampere 120/240 Volt service can be easily accommodated by the existing distribution facilities. NHEC asserts that construction of a submarine cable is the only technically sound solution, will not be obtrusive to the general public, will minimize the interference with the public safety or the public enjoyment of Lake Winnipesaukee, and that construction of an overhead cable for this distance is not feasible.

NHEC stated that the installation process will include trenching and direct burial of the submarine cable to a minimum depth of 3 feet onshore, and that offshore the cable will be covered with a minimum of 6 inches of material. According to NHEC, the submarine cable will be placed on the lake floor between the two onshore construction sites. In addition, there will be a minimum of two lengths of cable covers as described in NHEC Construction Standard U7-6B (Exhibit G) at each shoreline installation. NHEC stated that the cable will extend according to one of the following standards, whichever requires the longer extension: (1) to a point where the underwater depth is six feet from the 1982-2005 mean low water table level of 503.1 feet¹; or (2) a minimum length of 40 feet from the shoreline as established by the mean low water table level as described in Exhibit F.

According to NHEC, Mr. Rogers is the only abutter on each side of the easements on both Whortleberry and Pistol Islands; NHEC filed easements signed by Mr. Rogers with its Petition (Exhibits B and B1).

¹ This standard is based upon the Department of Environmental Service Dam Bureau's measurement of the historical lake level records for Lake Winnipesaukee.

NHEC states that the use and enjoyment by the public of these waters will not be diminished in any material respect as a result of the proposed submarine cable installation.

NHEC further attests that the construction of the submarine cable will be constructed, maintained, and operated in accordance with the requirements of the National Electrical Safety Code (NESC), American National Standards Institute (ANSI) C2-2007.

RSA 371:17 provides in relevant part that “[w]henever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of” New Hampshire, “it shall petition the Commission for a license to construct and maintain the same.” “Public waters,” as defined in RSA 371:17, means “all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe,” and includes the portions of Lake Winnipesaukee covered by the present petition.

Based on the information presented by NHEC and Staff’s recommendation, we find this crossing necessary for NHEC to meet the reasonable requirements of reliable service to the public within NHEC’s authorized franchise area and that the requested license may be exercised without substantially affecting the public rights in the waters of Lake Winnipesaukee. We find that the crossing is in the public good and we approve the petition on a *nisi* basis in order to provide any interested party the opportunity to submit comments on said petition or to request a hearing.

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, maintain and operate a submarine cable under Lake

Winnipesaukee in Moultonborough and Tuftonboro described in its petition and depicted in its Pre-Filed Testimony and exhibits submitted October 2, 2006 and revised on November 14, 2006, and on file with this Commission; and it is

FURTHER ORDERED, that NHEC shall conform to all requirements of the Department of Environment Service Wetlands and Non-Site Specific Permits (Exhibit C and Exhibit D); and it is

FURTHER ORDERED, that all construction and future reconstruction to this approved crossing shall conform to the requirements of the National Electric Safety Code and all other applicable safety standards in existence at that time; and it is

FURTHER ORDERED, that the Petitioner operate this crossing in conformance with the NESCC; and it is

FURTHER ORDERED, that NHEC shall provide a copy of this order to the (i) Town Clerks of Moultonborough and Tuftonboro, (ii) New Hampshire Attorney General, and (iii) pursuant to RSA 422-B:13, New Hampshire Department of Transportation and the Office of Secretary, U.S. Department of Commerce, by first class mail, no later than December 4, 2006, and to be documented by affidavit filed with this office on or before December 15, 2006; and it is

FURTHER ORDERED, that NHEC shall cause a copy 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 December 4, 2006 and to be documented by affidavit filed with this office on or before December 15, 2006; 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 December 8, 2006 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 December 13, 2006; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective December 15, 2006, 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-seventh day of November, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary