

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 17-039

NORTHERN UTILITIES, INC.

**Petition for License to Construct and Maintain a Gas Distribution Main
Across Little River in the Town of Exeter**

Order *Nisi* Granting License

ORDER NO. 26,053

September 6, 2017

In this order *nisi*, the Commission grants the request of Northern Utilities, Inc. (Northern), for a license to construct and maintain a natural gas distribution main under the public waters of Little River in Exeter, 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 March 8, 2017, Northern filed a petition pursuant to RSA 371:17 for a license to construct and maintain a natural gas distribution main under Little River in Exeter, New Hampshire. The new 150-foot natural gas distribution main will replace an existing main that is contained within a culvert crossing the river on Court Street. The petition states that the Court Street crossing is being replaced by a single span bridge that will not be able to accommodate the main. In support of its petition, Northern submitted an excerpt of the Town of Exeter Capital Improvement Plan, an excerpt of a New Hampshire Wetlands Bureau Standard Dredge and Fill Permit Application by the Town of Exeter, and engineering details.

On August 9, 2017, Commission Staff (Staff) recommended that Northern's petition 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/2017/17-039.html>.

II. SUMMARY OF PETITION

A. Crossing Location and Construction

According to the petition and accompanying exhibits, the proposed crossing will be located slightly west of the new Court Street bridge. A trenchless process called Horizontal Directional Drilling (HDD), with a directional drill approximately 450 feet in length, will be used to install the new gas distribution main. The main will be constructed from a 4-inch diameter plastic carrier pipe that is inserted into an 8-inch diameter plastic casing pipe. Approximately 150 feet of the new gas distribution main will be installed below the river. The casing pipe will be at least 12 feet below the river bed.

B. Regulatory Requirements and Property Rights

After reviewing Northern's petition and attachments, Staff determined that the proposed crossing is in compliance with the applicable requirements of N.H. Code Admin. Rules Puc 500 and 49 CFR Part 192. Northern is coordinating with the Town of Exeter to replace the existing gas distribution main in conjunction with the Town's project to replace the Court Street culvert with a bridge. The HDD construction of the new gas distribution main will use temporary entry and exit pits located within the Town of Exeter's municipal right-of-way.

C. Necessary for Service to the Public; Effect on Public Rights

Northern's petition stated that construction of the new gas distribution main is necessary for it to continue providing natural gas service to customers on both sides of the river. In addition, Northern submitted that the license can be exercised without substantially affecting the public rights in the Little River. The HDD process should have no impact on the river, and the new gas main will not impede use of the river or traffic over the new bridge. By installing the carrier pipe inside a casing, Northern will be able to conduct maintenance on the distribution main by removing it from the casing without disrupting the river.

II. SUMMARY OF STAFF REVIEW

The Commission's Safety Division Staff reviewed Northern's petition and supporting documentation, applicable statutes, rules, the requirements of 49 CFR Part 192, and ownership of the land, as well as public need, safety, and impact. Staff determined that the proposed construction meets the requirements of 49 CFR Part 192, applicable state statutes, and Commission rules. In a memorandum dated August 9, 2017, Robert Wyatt, Assistant Director of the Safety Division, recommended approval of Northern's petition subject to four conditions. First, approval should be limited to Northern's natural gas main under consideration in this docket. Second, Northern must construct, operate and maintain the main, consistent with the requirements of both Puc 506.02 and 49 CFR Part 192. Third, Northern must operate and maintain the crossing in conformance with the latest 49 CFR Part 192 amendments; and all future alterations to the crossing that may impact the public shall conform to the most current 49 CFR Part 192 amendments in effect at the time of submittal of the alteration. Fourth, Northern

must use above-ground pipeline markers for identification of the gas main with appropriate warning and company contact information on each bank of the Little River crossing.

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 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 New Hampshire Department of Environmental Services (NHDES) prepares, maintains and publishes an official list of all public waters in the state. Little River 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 Northern’s petition and Staff’s recommendation, we find that the proposed crossing is necessary for Northern 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 Little River, as required for approval under RSA 371:20. 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 Northern's petition or to request a hearing.

We note that Northern is responsible for obtaining 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 a gas main with the specifications proposed by Northern in this docket. Should Northern wish to make any changes, it must make an appropriate filing. Finally, 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 Exeter, the Office of the Attorney General, and owners of land bordering the crossing, as required by RSA 371:19.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, Northern is authorized, pursuant to RSA 371:17, *et seq.*, to construct, install, operate, and maintain a natural gas main under the Little River described in its petition and depicted in its filings; and it is

FURTHER ORDERED, that the construction of the main shall be implemented as depicted in the petition documents; and it is

FURTHER ORDERED, that this approval is limited to the natural gas pipeline under consideration in this docket, and is conditioned on the requirement that Northern constructs, operates, maintains, and, if necessary, alters the main consistent with the provisions of N.H. Code Admin. Rules Puc 500 and 49 CFR Part 192, 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 Northern 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 Northern use above-ground markers to identify the gas main, with appropriate warnings and Company contact information, on each bank of the crossing; and it is

FURTHER ORDERED, that Northern shall provide a copy of this Order *Nisi* to (i) the Town Clerk of Exeter, 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 Northern 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 an 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

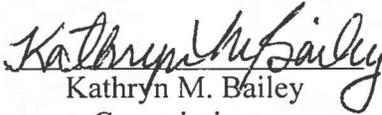
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than October 2, 2017; and it is

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



Martin P. Honigberg
Chairman

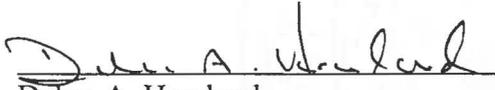


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director