

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 19-198

PENNICHUCK EAST UTILITY, INC.

**Petition for License to Construct and Maintain a Water Main
Under and Across Locke Lake in the Town of Barnstead**

Order *Nisi* Granting License

ORDER NO. 26,342

March 26, 2020

This order grants Pennichuck East Utility a license to construct and maintain a water main under and across the public waters of Locke Lake in Barnstead, New Hampshire. The Commission issues this order on a *nisi* basis to ensure that interested persons receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On December 13, 2019, Pennichuck East Utility, Inc., (PEU), filed a petition pursuant to RSA 371:17 requesting a license to construct and maintain a water main under Locke Lake in Barnstead, New Hampshire. The new main will interconnect the existing water system on each side of Locke Lake to treat arsenic cost effectively in both wells that serve residents of Locke Lake Colony. In support of its request, PEU submitted project maps, plan and profile drawings of the proposed main, and detailed drawings of the interconnection of the existing water system. On January 29, 2020, PEU filed a copy of an easement deed granted by the Locke Lake Colony Association (LLCA) for the water main crossing.

Commission Staff (Staff) recommended that PEU's license request be granted. The request and subsequent docket filings, other than any information for which confidential

treatment is requested of or granted by the Commission, are posted on the Commission's website at <https://puc.nh.gov/Regulatory/Docketbk/2019/19-198.html>.

II. SUMMARY OF REQUEST

PEU seeks a license to install, operate, and maintain a new water main that will connect two existing portions of the water system that currently serves approximately 755 residents of the Locke Lake Colony development, which surrounds Locke Lake in Barnstead. The new main will be installed below the public waters of Locke Lake.

A. Crossing Location and Construction

The proposed installation of the new water main will extend under Locke Lake from just south of Georgetown Drive on the northern shore of the lake and continue in a southwesterly direction to the shore of the lake just north of Varney Road. The new main will connect the existing Airstrip Well and the Peacham Road Treatment Facility. The main will consist of approximately 850 linear feet of 3-inch diameter high-density polyethylene (HDPE) water main running through an 8-inch diameter HDPE sleeve. The piping will be installed using horizontal directional drilling techniques at a depth of approximately six feet below the bottom of the lake.

B. Regulatory Requirements

Locke Lake is listed on the Official List of Public Waters maintained by the New Hampshire Department of Environmental Services (DES). Accordingly, PEU filed its request for a license under RSA 371:17. PEU stated in its petition that the new main has been designed and will be constructed and maintained in accordance with the standards of the American Water Works Association (AWWA), as required under New Hampshire Code of Administrative Rules, Puc 606.01.

DES accepted PEU's Shoreland Permit by Notification, which authorizes the water main project as filed, in DES File Number 2020-00120. According to PEU, no other local, state, or federal permits are necessary.

C. Property Rights

PEU does not anticipate that abutters on either side of Locke Lake at the crossing endpoints will be affected because the new construction will be located within a property easement granted to PEU by LLCA.

D. Service to the Public and the Effect on Public Rights

According to PEU's petition, the existing water system was constructed, operated, and maintained to meet the reasonable requirements of service to the public. The installation of the new main will meet that public need and will not substantially affect the public's use and enjoyment of Locke Lake. The Commission approved PEU's proposed financing of this project in Order No. 26,189, issued in Docket No. DW 18-132. Finally, the main installation under and across Locke Lake has been designed and will be constructed and maintained in accordance with AWWA requirements.

III. SUMMARY OF STAFF REVIEW

Staff reviewed the petition and supporting documentation, applicable statutes, rules, AWWA requirements, and land ownership status, as well as public need, safety, and relevant impacts. Staff determined that the proposed crossing meets AWWA requirements and applicable state statutes and rules, and recommended approval of the petition with conditions. Those conditions included, among other things, that future alterations to the crossing should conform to the requirements of Puc 606.01 and AWWA C906 standards for polyethylene pipe; future alterations should be resubmitted to the Commission at least 60 days prior to any alteration;

connection methods of the HDPE water main should be limited to hot fusion methods rather than mechanical joining techniques; and the pipeline installation should be locatable for identification for future excavations using tracer wire installation, for example, or other methods.

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, 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. DES has classified Locke Lake as a “public water.”¹

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 public rights in Locke Lake in Barnstead, 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 persons the opportunity to submit comments or request a hearing.

This approval applies only to the water main installation described in PEU’s petition, with the specifications proposed in this docket. Should PEU seek further modification of the licensed crossing, it must make an appropriate filing regarding that modification. PEU remains

¹ See http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm, and <https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/olpw.pdf>.

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

We also require that notice be provided to the Town of Barnstead; the New Hampshire Department of Environmental Services; and, pursuant to RSA 371:19, the Office of the Attorney General, and owners of land bordering the lake crossing.

Based upon the foregoing, it is hereby

ORDERED, that, subject to the effective date below, Pennichuck East Utility, Inc., is authorized pursuant to RSA 371:17, *et seq.*, to construct, install, operate, and maintain a water main under and across Locke Lake as described in its request and depicted in its filings and as specified in Staff's recommendation; and it is

FURTHER ORDERED, that approval is limited to the construction or alteration of the water main and related facilities under consideration in this docket, and is conditioned on the requirement that Pennichuck East Utility, Inc., construct, install, operate, and maintain that main consistent with the applicable provisions of the standards of the American Water Works Association and N.H. Admin. R. Puc 606.01, *et seq.*, as amended from time to time, and all other applicable safety standards in existence at any relevant time; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc., shall limit connection methods for the 3-inch diameter HDPE water main to hot fusion rather than mechanical joining techniques; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc., shall ensure that the pipeline installation is locatable for identification in future excavations by methods such as tracer wire installation; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc., shall submit any future proposed alteration to the crossing license granted herein at least 60 days prior to undertaking any such alteration; and it is

FURTHER ORDERED, that Pennichuck East Utility, Inc., shall provide a copy of this order to (i) the Town Clerk of Barnstead, New Hampshire, (ii) the New Hampshire Department of Environmental Services, and, (iii) pursuant to RSA 371:19, the Office of the Attorney General, and owners of land bordering the lake crossing, by first class mail, no later than 10 days following the issuance of this order; and it is

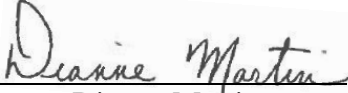
FURTHER ORDERED, that Pennichuck East Utility, Inc., shall cause a summary of this order, issued concurrently with this order, to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to occur no later than April 1, 2020, and to be documented by affidavit filed with the Commission on or before April 14, 2020; and it is

FURTHER ORDERED, that persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing that states the reason and basis for a hearing no later than April 8, 2020, for the Commission's consideration; and it is

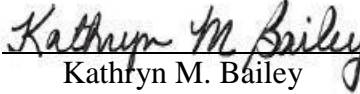
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than April 15, 2020; and it is

FURTHER ORDERED, that this order shall be effective April 17, 2020, unless Pennichuck East Utility, Inc., fails to satisfy the notice and publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

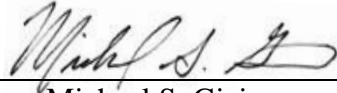
By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of
March, 2020.



Dianne Martin
Chairwoman

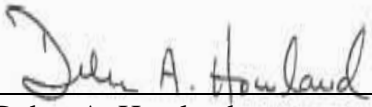


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket# : 19-198

Printed: 3/26/2020

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