

DE 02-205

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition for License to Construct and Maintain Electric Lines
Crossing Public Waters in the City of Franklin and
in the Towns of Tilton and Belmont, New Hampshire

Order Nisi Granting License to Construct and Maintain Electric
Lines Over and Across Public Waters

O R D E R N O. 24,271

January 30, 2004

The petitioner, Public Service Company of New Hampshire (PSNH), filed a Petition pursuant to RSA 371:17 with the New Hampshire Public Utilities Commission (Commission) on November 13, 2002, for a license to construct and maintain electric lines crossing public waters of the Pemigewasset River in the City of Franklin, the Winnepesaukee River in the Towns of Tilton and Belmont, and Lake Winnisquam in the Town of Belmont, New Hampshire.

The Petition states that in order to meet the reasonable requirements of service to the public, PSNH had previously constructed and currently maintains an overhead 34.5kV electric transmission line, designated as the 337 line, which runs in a PSNH existing right-of-way between PSNH's Webster Substation and PSNH's Laconia Substation. The 337 line crosses public waters at three locations: the Pemigewasset River in the City of Franklin, the Winnepesaukee River in the Towns of Tilton and Belmont, and Lake Winnisquam (at Ephram's Bay) in the Town of

Belmont. Each of these crossings had been previously licensed by the Commission in Docket DE 76-22 (Order No. 12,219, dated April 21, 1976), Docket DE 75-149 (Order No. 11,949, dated August 4, 1975), and in Docket D-E3442 (Order No. 6,668, dated August 31, 1955) respectively.

In its Petition, PSNH states that increasing load growth in the Lakes Region of New Hampshire demonstrated a need for PSNH to upgrade the reliability and capacity of the existing transmission system, in order to continue to meet the reasonable requirements of service to the public. PSNH said that it will meet this need by construction of a new overhead 115 kV electric transmission line, to be designated the J125 line, in the existing PSNH right-of-way between PSNH's Webster and Laconia Substations.

In two of the three crossing locations, the new J125 line will be double-circuited with the 337 line on new, single pole structures in approximately the same locations as the existing centerline of the 337 line. This will involve removal of the existing 337 line and its associated structures, and reconstruction of that line in a double circuit configuration with the new J125 line. At the Lake Winnisquam crossing, where the J125 line and the 337 line will not be double-circuited, the J125 line will cross overhead and the 337 line will be an underwater cable crossing. When completed, the new J125/337 line

will parallel another existing PSNH 115kV/34.5kV double-circuit line (the L176/398 line) in the same right-of-way.

In support of the petition, PSNH submitted the location, plan and a profile drawing of each crossing. PSNH stated that each of the proposed overhead crossings has been designed and would be constructed in accordance with the applicable standards and specifications of the 2002 National Electrical Safety Code (NESC), as would the installation of the underwater cable. They also stated that all of the clearances either meet or exceed the requirements. *See Petition, p. 2.*

PSNH stated that the installation methods to be used in the construction of the overhead line crossing will avoid any impact to any wetlands in the areas of the crossings, and therefore asserts that no wetlands permits are required. PSNH stated that it applied to the New Hampshire Department of Environmental Services, Bureau of Wetlands, for a minimum impact, expedited Dredge and Fill Permit for the submarine cable crossing installation. In a presentation dated May 29, 2002 relative to the Petition, PSNH stated it also needed a Highway Crossing Permit for Interstate 93 from the New Hampshire Department of Transportation, local height variances, and a Railroad Crossing permit. PSNH averred that it owns permanent easement rights over the property on both sides of each water crossing location, with the rights to install, construct, operate and maintain overhead

and underground electric transmission lines and associated conductors, cables and structures.

In its Petition, PSNH stated that an osprey nest at the location of the Lake Winnisquam crossing needed to be relocated before the onset of the next nesting season, in early spring, 2003 (mid-March). Subsequently, PSNH stated that it completed the aerial crossing over the Winnisquam River on February 18, 2003, the crossing over Ephram's Cove on February 12, 2003, and the aerial crossing over the Pemigewasset River on March 27, 2003.

The placement of the 34.5kV submarine cable crossing was completed in December, 2003. PSNH stated that after the osprey flew south for the winter of 2002-2003, the nest was removed from the submarine cable structure and stored in a protected location. PSNH stated that the old structure on which the nest rested was removed and replaced. PSNH said that once the new structure was completed, the nest was placed upon it and the osprey returned in the spring of 2003 and resumed using the nest as if nothing had changed.

Staff attempted on several occasions to receive confirmation from PSNH that the appropriate permits and variances were obtained. PSNH provided documentation on November 20, 2003, regarding the permits and variances it obtained in connection with the Petition. PSNH stated that the Wetlands and Non-

Specific Permit, No. 2002-02319 was issued on November 26, 2002 to PSNH for the submarine cable crossing Lake Winnisquam wetland areas in Belmont. PSNH further averred that on October 28, 2002 it had obtained another Wetlands and Non-Site Specific Permit, No. 2002-02190, for replacement of two poles in wetland areas in Tilton as part of the project, and unrelated to the water crossings location.

PSNH also provided documentation that a traffic control plan for the proposed line over Interstate 93 was submitted to the Department of Transportation and that the work was approved. PSNH provided the Commission with a copy of the Traffic Control Plan to demonstrate that this was accomplished.

PSNH stated that only Laconia and Franklin had structure height ordinances in place. In Franklin, PSNH met with the Town Planner who, after checking with the Zoning Board, informed PSNH that Franklin's height ordinance was not applicable to electric transmission structures. In Laconia, PSNH met with the Planning and Zoning Administrator and the Director of Code Enforcement and, after review of PSNH's plans for construction, Laconia advised PSNH that it did not have to obtain a variance to proceed with construction.

Finally, with respect to the railbed crossing in Tilton, PSNH already holds a license from the Boston and Maine Railroad under a Pole and Wire Agreement dated May 23, 1938 to

use the existing right-of-way. PSNH also submitted a copy of this Agreement with the Commission in support of its compliance with all permits and variances applicable to the construction and maintenance of the requested wire crossings.

RSA 371:17 provides, in part, that whenever 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 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 ten acres, tidewater bodies, and such streams or portions thereof as the Commission may prescribe." Based on the documentation presented with the Petition, the Commission prescribes the part of the Pemigewasset River, the Winnipesaukee River, and Lake Winnisquam under the proposed aerial electric lines and over the submarine cable as being "public waters" within the meaning of RSA 371:17.

After reviewing the Petition and supporting filings, the Commission finds such crossing necessary for PSNH to meet the requirements of reliable service to the public within PSNH's authorized franchise area, and finds that the requested license may be exercised without substantially affecting the public rights in the waters of the Pemigewasset River, the Winnipesaukee

River, and Lake Winnisquam. Therefore, we determine that the license may be exercised without substantially affecting the public rights in said waters.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, the Commission grants a license to PSNH to operate and maintain electric lines at three separate locations: crossing the public waters of the Pemigewasset River in the City of Franklin, the Winnepesaukee River in the Towns of Tilton and Belmont, and Lake Winnisquam in the Town of Belmont, New Hampshire; and

FURTHER ORDERED, that the Petitioner shall provide a copy of this order to the (i) Town Clerks of Franklin, Tilton and Belmont, (ii) New Hampshire Attorney General and the owners of the land bordering on said public waters at the location of the river crossing, pursuant to RSA 371:19, 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 February 10, 2004; and it is

FURTHER ORDERED, that the Petitioner 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 the public water crossings are located, such publication to be no later than February 9, 2004 and to be documented by affidavit filed with this office on or before

February 23, 2004; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than February 16, 2004; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than February 23, 2004; and it is

FURTHER ORDERED, that this Order Nisi shall be effective March 1, 2004, unless the Petitioner 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 thirtieth day of January, 2004.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Graham J. Morrison
Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director