

DE 08-112

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition for License to Construct and Maintain Electric Lines and a Fiber Optic Communications Cable Over and Across the Public Waters of the South Branch of the Ashuelot River in Troy and Swanzey, the Ashuelot River in Swanzey and Keene, and Public Land in Keene and Troy, New Hampshire

Order *Nisi* Granting License

ORDER NO. 24,904

October 1, 2008

On September 12, 2008, Public Service Company of New Hampshire (PSNH) filed a petition pursuant to RSA 371:17 for a license to construct and maintain electric lines and an “All Dielectric Self Supported” fiber optic communications cable (ADSS cable) over and across the public waters of the South Branch of the Ashuelot River in Troy and Swanzey, the Ashuelot River in Swanzey and Keene, and across state-owned land in Keene and Troy. On September 30, 2008, PSNH filed responses to certain Staff inquiries.

According to the petition, PSNH previously constructed and currently maintains a 115 kilovolt (kV) electric transmission line designated as line T-198 between PSNH’s Monadnock Substation in Troy and its Emerald Street Substation in Keene. The T-198 line crosses water at thirteen locations consisting of seven crossings of the South Branch of the Ashuelot River in Troy and Swanzey and six crossings of the Ashuelot River in Swanzey. The petition states that, with the exception of one existing crossing of the Ashuelot River in Swanzey, the existing overhead crossings of the T-198 at these locations and over state-owned property are not licensed by the Commission because PSNH overlooked the need for a license or because other crossing

criteria applied at the time of the original construction. In its September 30, 2008 filing, PSNH stated that it originally installed the T-198 facilities in 1962.

PSNH said that the installation of the ADSS cable is required to upgrade the reliability and capacity of the communications systems used in PSNH's electric system operations of the new Fitzwilliam Substation. According to the petition, no new structures are required because PSNH plans to add the new ADSS cable beneath the existing 115kV phase conductors of the T-198 circuit. PSNH states that the addition of the ADSS cable and the licensing of fourteen previously unlicensed crossings will allow PSNH to meet the reasonable requirements of service to the public in the western region of New Hampshire. PSNH notes that the new ADSS facilities may be temporary because PSNH is studying rebuilding the entire T-198 line as part of an upgrade of electric service to the western area of the state.

In support of its petition, PSNH supplied geographic maps, plan and profile drawings for all water crossings (Exhibits 1 and 2 in Appendices A through K) and both crossings of public lands (Exhibit 3 in Appendices A and K), license information for the one existing license (Table 1), and construction details of the existing structure types used in the existing crossings (Figures 1, 2, 3, and 4), all of which are incorporated in this order by reference.

According to PSNH, the ADSS cable will cross public waters at thirteen locations consisting of seven crossings of the South Branch of the Ashuelot River in Troy and Swanzey and six crossings of the Ashuelot River in Swanzey and Keene. In designing the distance of the phase conductors and ADSS cable to water surfaces, PSNH used the New Hampshire Geographically Referenced Analysis and Information System (NH GRANIT), which incorporates Federal Emergency Management Agency (FEMA) flood data, in its design at all

crossing locations to determine river bank overflow elevations. PSNH stated that it hired a water resources technology consultant, ENSR Environmental Consultants (ENSR), to verify that river bank overflow elevations are representative of normal flood conditions, as required by the NESC in crossing design (Appendix L). PSNH stated that ENSR confirmed that river bank overflow observations were a conservative approximation for the normal flood level of the Ashuelot River and South Branch of the Ashuelot River.

In support of the state-owned land crossing in Troy, PSNH filed a license agreement between PSNH and the New Hampshire Department of Transportation (NHDOT) which permits the T-198 crossing, including the ADSS cable installation. According to PSNH, the NHDOT prepared the license agreement which PSNH signed and returned to the NHDOT for execution. According to its September 30, 2008 filing, PSNH is not aware of any reason that this agreement will not be signed by NHDOT in the normal course. PSNH filed the pending license agreement with NHDOT and the existing easement with its petition (Appendix M).

With respect to the state-owned land in Keene, PSNH said that the NHDOT previously granted PSNH a crossing easement for the T-198 line. According to the petition, NHDOT orally agreed that the installation of the ADSS cable on the T-198 facilities is permitted under the existing easement. In its September 30, 2008 letter, PSNH said it requested written confirmation of the permission and PSNH knows of no reason why NHDOT would not provide written confirmation of the oral approval.

PSNH stated that the crossings have been designed, constructed, maintained and operated to meet the applicable requirements of NESC. As a point of clarification, PSNH stated that it prepared a geographical overlay which showed that the proposed project is not in the Special

Wind Region as depicted in the National Electrical Safety Code (NESC), American National Standards Institute (ANSI) C2-2007 Figure 250-2(e).

PSNH investigated various weather and loading conditions to determine the minimum clearance of the conductors and ADSS cable to the water surfaces, land surfaces, railroad property of the crossings, and other utilities, as well as the distances between the phase conductors, the static wires, and the ADSS cable. As planned by the Company, all conductors, static wires, and the ADSS cable will meet NESC sag clearances under the most adverse conditions for those conductors.

According to PSNH, installation methods used in the stringing of the ADSS cable will avoid any impacts to wetlands in the areas of the crossing and therefore no wetland permits will be required from the New Hampshire Department of Environmental Services (NHDES).

In its petition, PSNH states that, with the exception of one crossing of the Ashuelot River in Keene, PSNH owns permanent easements not less than a minimum of 150 feet wide for its lines and facilities on both sides of the public water bodies and state lands at all of the crossing locations. With respect to the crossing in Keene, PSNH owns an easement 65 feet in width.

PSNH said the installation will not require replacement or alteration of existing pole structures and, therefore, the existing height of the structures will remain unchanged. PSNH contacted the Federal Aviation Administration (FAA) to assure compliance with federal regulations regarding elevations and aircraft flight paths due to the proximity of the facilities to the Dillant-Hopkins Airport in Keene. The FAA determined that it does not require a notice of proposed construction review because the installation of the ADSS cable will be below the height of existing structures.

RSA 371:17 requires a utility to obtain Commission approval before constructing poles, towers and associated wires and fixtures over, under or across any public waters or across any land owned by the state. "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."

Based on the information presented by PSNH, the review and recommendation of the Commission's consultant, and Staff's October 1, 2008 memorandum recommending approval of the petition, we find that these crossings are necessary for PSNH to meet the "reasonable requirements of reliable service to the public" as required by RSA 371:17 and that they will not substantially affect the public's rights in the public waters or public lands in question as required for approval under RSA 371:20. 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, PSNH is granted a license, pursuant to RSA 371:17 *et seq.*, to construct, maintain and operate electric and communications lines over and across the public waters and public lands described in its petition and depicted in its figures, appendices, table, and exhibits submitted September 12, 2008, and supplemented on September 30, 2008, and on file with this Commission; and it is

FURTHER ORDERED, that PSNH shall conform to all requirements of the New Hampshire Department of Transportation related to these approved crossings of public lands; and it is

FURTHER ORDERED, that all construction and future reconstruction to these approved crossings 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 PSNH shall maintain and operate these crossings in conformance with the National Electric Safety Code; and it is

FURTHER ORDERED, that PSNH shall file a copy of the pending agreement with the New Hampshire Department of Transportation to cross state-owned property in Keene, New Hampshire when finalized; and it is

FURTHER ORDERED, that PSNH shall notify the Commission should a renewal term not be approved by the State or if the State revokes the agreement for crossing the state-owned property in Keene; and it is

FURTHER ORDERED, that PSNH shall provide a copy of this order (1) to the clerks of the affected municipalities, (2) the Attorney General, (3) other owners of land parcels bordering on public waters at and immediately upstream and downstream of the location of each crossing, and other owners of land parcels bordering on public lands immediately adjacent to the location of each crossing, (4) the New Hampshire Department of Transportation, (5) the Office of Secretary, U.S. Department of Commerce, and (6) the New Hampshire Department of Environmental Services by first class mail, no later than October 6, 2008, and to be documented by affidavit filed with this office on or before October 14, 2008; and it is

FURTHER ORDERED, that PSNH 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 October 6, 2008 and to be documented by affidavit filed with this office on or before October 14, 2008; 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 October 10, 2008 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 14, 2008 and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective October 15, 2008, unless PSNH fails to satisfy the publication obligation or affidavit requirements 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 first day of October, 2008.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Lori A. Davis
Assistant Secretary