

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 21-105

**CONSOLIDATED COMMUNICATIONS OF NORTHERN NEW ENGLAND COMPANY,
LLC d/b/a CONSOLIDATED COMMUNICATIONS - NNE**

**Petition for License to Construct and Maintain Cable Lines Over and Across
Lands Owned by the State of New Hampshire in Peterborough and Temple**

O R D E R N O. 26,516

September 8, 2021

In Order Nisi 26,465, of March 31, 2021, the Commission granted Eversource a license to modify, reconstruct, maintain, and operate an existing electric distribution line that crosses over land owned by the State of New Hampshire in Miller State Park in Peterborough and Temple. This order grants Consolidated Communication's request for a license that will enable them to reconstruct, maintain, and operate telecommunication cable lines on Eversource's aforementioned newly erected poles.

I. PROCEDURAL HISTORY

On March 31, 2021, the Commission issued Order Nisi 26,465 in Docket DE 20-115, granting the Public Service Company of New Hampshire, d/b/a Eversource ("Eversource") a license to modify, reconstruct, maintain, and operate an existing electric distribution line that crosses over land owned by the State of New Hampshire in Miller State Park in Peterborough and Temple. Prior to the issuance of Order Nisi 26,465, an analysis conducted by the staff of the Safety Division ("Safety"), which is now a part of the New Hampshire Department of Energy ("Energy"), determined that the proposed construction met the requirements of the National Electrical Safety Code (NESC) and applicable state statutes and rules.

On May 20, 2021, Consolidated Communications of Northern New England, LLC, d/b/a Consolidated Communications ("Consolidated"), filed a petition pursuant to RSA 371:17 and 371:17-a for a license to reconstruct, maintain, and operate telecommunication cable lines in the area of Peterborough and Temple, New Hampshire, in Miller State Park in land owned by of New Hampshire. The Commission subsequently opened Docket DT 21-105.

On June 11, 2021, Safety filed a recommendation that given the determinations which lead to the Commissions' authorization in Order Nisi 26,465, Consolidated's petition may be exercised without substantially affecting the public rights in the public lands.

On August 17, 2021, Consolidated filed a letter in the docket requesting the Commission take action in that matter and brought to the Commission's attention that it is negotiating with the State of New Hampshire Department of Natural and Cultural Resources ("DNCR"), on a permit to "relocate the current utility corridor away from recreational areas within the State Park to an underground conduit at the summit owned by the State". See Consolidated Communications' letter of August 17, 2021. Consolidated noted that the current draft of the DNCR permit requires completion all of the work within the State Park on or before October 1.

On August 17, 2021, Energy filed an appearance as in the docket as the successor of the former Safety Division of the Public Utilities Commission pursuant to RSA 12-P:8.

II. SUMMARY OF REQUEST

Consolidated's petition requests a license permitting the company to attach its cable facilities to the newly erected poles installed by Eversource, as approved by Order Nisi 26,465. Consolidated proposes to attach a steel strand .306 inches in

diameter to the poles and lash a 50-pair copper cable (BKMA) to the strand. That copper cable will be overlashed with a 72-Fiber cable.

The permit Eversource obtained from DNCR for the construction of its poles also allows Consolidated to attach its cable facilities to the newly erected poles. Consolidated's letter of August 17, 2021, subsequently notes that the company's draft DNCR permit to carry out the work requires the reattachments be completed by October 1, 2021.

Consolidated Communications stated in their petition that the company will remove all existing communication equipment and that the existing communication cables on the ground will be abandoned and removed. *See* Consolidated Communications petition p. 3.

III. COMMISSION ANALYSIS

A. Crossing Locations and Construction

The new utility corridor, authorized in Order Nisi 26,465, is sixteen (16) feet wide from the boundary of the State-owned land property at the north boundary of the Rte. 101 right of way to the MIT building and twenty (20) feet wide from the MIT building to the summit termination point. Construction for the corridor access routes, which were authorized by DNCR through the Director, Division of Parks & Recreation, and the Director, Division of Forests and Lands, pursuant to a Special Use Permit Eversource received. There is no private property the utility upgrade traversed, unlike the original pole line. During the design phase, an abutter, Pinnacle Towers Inc. ("Pinnacle"), participated in the initial design process.

B. Service to the Public and Effect on Public Rights

Consolidated stated it will maintain the required safe line clearances above the land surfaces at all times. The company further represented that the newly installed

facilities will improve safety for the public by enabling the removal of the existing surface conduit conditions.

C. Legal Review

"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 (Supp. 2020). 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.

Based on the petition, Safety's recommendation, and the Commission's analysis in Order Nisi 26,465, we find that the proposed crossings are 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 the state-owned land in Peterborough and Temple, as required for approval under RSA 371:20. We, therefore, approve the petition subject to the conditions set forth in the ordering clauses below. We issue our decision on a *nisi* basis to provide interested persons the opportunity to submit comments or request a hearing. This approval applies only to the lines and structures specified in this docket. Should Consolidated seek further modifications, it must make the appropriate filing. Consolidated is responsible for obtaining any and all federal, state, or local permits required by authorities having jurisdiction for the construction and installation of the proposed crossings. We require notice to be provided to the Towns of Peterborough and Temple, Department of Environmental Services, Department of Transportation,

Department of Natural and Cultural Resources, and, pursuant to RSA 371:19, the Office of the Attorney General.

Based upon the foregoing, it is hereby

ORDERED NISI, that, subject to the effective date below, Consolidated is authorized, pursuant to RSA 371:17, et seq., to construct, modify, install, operate, and maintain electric lines over and across public land owned by the State of New Hampshire in Peterborough and Temple, as described in its petition and depicted in its filings, and as specified in the staff of Safety's recommendation; and it is

FURTHER ORDERED, that approval is limited to the lines and supporting structures under consideration in this docket and is conditioned on the requirement that Consolidated construct, operate, maintain, and, if necessary, alter the lines and supporting structures consistent with the provisions of the National Electrical Safety Code, in accordance with N.H. Admin. R., Puc 306.01, et seq., 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 Consolidated shall submit any future proposed alterations to the crossing license granted herein at least 60 days prior to undertaking any such alterations; and it is

FURTHER ORDERED, that Consolidated shall provide a copy of this order to: (i) the Town Clerks of Peterborough and Temple, New Hampshire; (ii) the New Hampshire Department of Environmental Services; (iii) the New Hampshire Department of Transportation; (iv) the New Hampshire Department of Natural and Cultural Resources; and (v) the New Hampshire Attorney General, as required by

RSA 371:19, by overnight delivery for receipt no later than September 13, 2021, to be documented by affidavit filed with the Commission on or before September 20, 2021; and it is

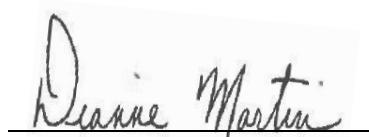
FURTHER ORDERED, that Consolidated shall cause a copy of this order nisi to be published on its website within two business days of this order, such publication to be documented by affidavit filed with the Commission on or before September 20, 2021; and it is

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 September 17, 2021, for the Commission's consideration; and it is

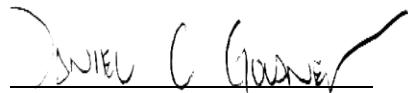
FURTHER ORDERED, that any party interested in responding to such comments or request for a hearing shall do so no later than September 20, 2021; and it is

FURTHER ORDERED, that this order shall be effective September 21, 2021, unless Consolidated 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 eighth of September, 2021.



Dianne Martin
Chairwoman



Daniel C. Goldner
Commissioner

Service List - Docket Related

Docket# : 21-105

Printed: 9/8/2021

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