

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** June 30, 2021

**AT (OFFICE):** NHPUC

**FROM:** Paul Kasper *PgK*

Assistant Director, Safety Division

**SUBJECT:** Docket No. DT 21-108 Firstlight Fiber, Petition for a License to Construct and Maintain Telecommunication Cable Lines Over and Across Land Owned by the State in the Towns of Peterborough and Temple, New Hampshire  
**Staff Recommendation**

**TO:** Debra Howland, Executive Director  
Thomas Frantz, Director, Electric Division  
Richard Chagnon, Assistant Director, Electric Division  
Lynn Fabrizio, Senior Staff Attorney, Legal Division

**CC:** Randy Knepper, Director, Safety Division

The Safety Division's review of the above petition consisted of the following elements:

- Petition contents and history;
- Applicable State Statute;
- Review of the existing crossing(s) already licensed by the PUC;
- Review of land ownership of existing pole structures;
- Review of NESC code requirements as described in Puc 400;
- Review of public need and public impact, including applicability of other State regulations;
- Conclusions and Recommendations.

### 1. Petition contents and history

On May 27, 2021, Firstlight Fiber (FirstLight), filed a petition pursuant to RSA 371:17-a for a license to construct, maintain, and operate a telecommunication cable line, which is a ¼" EHS strand with a single 144 count fiber cable lashed to it. FirstLight inadvertently referenced RSA 371:17 in error in their petition. This Petition relates to work being completed in the area of Peterborough and Temple, New Hampshire, in Miller State Park in land owned by the State

of New Hampshire. The project has been described in detail by Public Service Company of New Hampshire (“Eversource”) in Docket DE 20-115. Eversource’s work was the subject of a similar Petition for License (the “Eversource Petition”) granted by the Commission in its Order Nisi 26,465 dated March 31, 2021. See the detailed NHPUC Safety Division map/schematic in the attachments Map 1, Map 2, and Map 3 of this recommendation.

A field survey of the proposed utility corridor was performed by the New Hampshire Natural Heritage Bureau (NHNHB). All plant species present, 16 herbaceous and 9 woody species, were recorded. None of these species are tracked by NHNHB. None of these forest areas are in a condition or level of development that would warrant formal documentation as exemplary by NHNHB.

For clarity, Safety Staff summarized the twenty-nine (29) structures with a PUC-noted reference number, which will be found on the attached Safety Division map. Common to all these noted structures, One (1) new telecommunication cable line, 1/4” EHS strand with a single 144 count fiber cable lashed to it and will be placed 60” below the Eversource Primary Neutral. The communication cable clearance requirements were met using the National Electrical Safety Code (NESC) conditions for all crossings within these segments. Only 9.5 feet clearance is required by the NESC Table 232-1 for these crossings. Refer to FirstLight exhibits 1 through 11.

Structure	Type	SPAN (pole to pole)	Distance (feet)	FirstLight Vertical Design Clearance	Complies with NESC Table 232- 1
P 81/1	40' Class 1 Penta Wood Pole	A	123	25.2	YES
P 81/2	40' Class 1 Penta Wood Pole	B	147	22.8	YES
P 81/3	40' Class 1 Penta Wood Pole	C	164	24.8	YES
P 81/4	40' Class 1 Penta Wood Pole	D	138	24.4	YES
P 81/5	55' Class 1 Weathering Steel Pole	E	130	15.9	YES
P 81/6	45' Class 1 Weathering Steel Pole	F	304	19.4	YES
P 81/7	40' Class 1 Weathering Steel Pole	G	163	23.7	YES
P 81/8	40' Class 1 Weathering Steel Pole	H	260	26.9	YES
P 81/9	40' Class 1 Penta Wood Pole	I	156	26.4	YES
P 81/10	40' Class 1 Penta Wood Pole	J	141	28.0	YES
P 81/11	40' Class 1 Penta Wood Pole	K	135	29.1	YES
P 81/12	40' Class 1 Penta Wood Pole	L	186	31.8	YES
P 81/13	45' Class 1 Penta Wood Pole	M	113	20.3	YES
P 81/14	45' Class 1 Penta Wood Pole	O	163	20.2	YES
P 81/15	45' Class 1 Penta Wood Pole	P	197	28.6	YES
P 81/16	45' Class 1 Penta Wood Pole	Q	192	22.9	YES
P 81/17	40' Class 1 Penta Wood Pole	R	206	25.2	YES
P 81/18	40' Class 1 Penta Wood Pole	S	176	24.6	YES
P 81/19	40' Class 1 Penta Wood Pole	T	160	19.3	YES
P 81/20	45' Class 1 Penta Wood Pole	U	170	21.2	YES
P 81/21	40' Class 1 Penta Wood Pole	V	156	21.8	YES
P 81/22	40' Class 1 Penta Wood Pole	W	213	20.8	YES
P 81/23	40' Class 1 Penta Wood Pole	X	205	21.3	YES
P 81/24	40' Class 1 Penta Wood Pole	Y	244	18.1	YES
P 81/25	40' Class 1 Penta Wood Pole	Z	204	24.5	YES
P 81/26	40' Class 1 Penta Wood Pole	AA	213	19.6	YES
P 81/27	45' Class 1 Penta Wood Pole	AB	180	20.5	YES
P 81/28	40' Class 1 Penta Wood Pole	AC	204	26.3	YES
P 81/29	45' Class 1 Penta Wood Pole	AD	141	26.3	YES
	<b>Total Span</b>		5184.0		
	<b>Less DOT ROW Land Crossed</b>		222.90		
	<b>Total State Land Crossed for License</b>		4961.10		

## **1. New Hampshire statute referenced in petition**

**371:17-a License by Notification of New Attachments on Existing Utility Poles.** – Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility other than electric or gas should construct a cable, conduit, or wires and fixtures upon an existing line of poles or towers 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, the public utility shall file written notification with the commission for a license to construct and maintain such cable, conduit, or wires and fixtures. In this section, "public waters" means all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the commission may prescribe. Every corporation and individual desiring to cross any public waters or land for the purposes of this section shall file written notification in the same manner prescribed for a public utility. The notification shall include a description of the specific geographic and pole locations of the crossing and verification that there is a valid pole attachment license or that an application for a pole attachment license has been submitted to the utility or utilities that own such poles or towers. The notification shall include an affidavit signed by the responsible officer confirming that the crossing shall be completed in compliance with such pole attachment license and the National Electrical Safety Code. Upon receipt of such notification, no further inquiries or investigations by the commission shall be required in granting the requested license.

**Source.** 2013, 82:2, eff. June 19, 2013.

## **2. Review of land ownership of existing pole structures**

In its petition, FirstLight states the communication cables crossings over the State's land parcels within a new utility corridor area was authorized by the New Hampshire Division of Natural and Cultural Resources (DNCR) pursuant to a Use and Occupancy License which Eversource had applied for concurrent with this petition and was obtained prior to commencement of the project that is the subject of this petition. The new utility corridor 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 (depicted on Exhibits 4 and 5) and twenty (20) feet wide from the MIT building to the summit termination point. The Exhibits also depict construction 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 which Eversource received for this petition and was obtained prior to commencement of the project that is the subject of this petition. There is no private property in which the utility upgrade traversed unlike the original pole line.

### **3. Review of NESC code requirements as described in Puc 400**

N.H. Code of Administrative Rules Puc 400 requires:

- (a) Telephone utilities shall construct, install, operate and maintain its plant, structures and equipment and lines, as follows:
  - (1) In accordance with good utility practice;
  - (2) After weighing all factors, including potential delay, cost and safety issues, in such a manner to best accommodate the public; and
  - (3) To prevent interference with other underground and above ground facilities, including facilities furnishing communications, gas, water, sewer or steam service.
- (b) For purposes of this section, “good utility practice” means in accordance with the standards established by:
  - (1) The National Electrical Safety Code C2-2012....

FirstLight states that the proposed crossings have been designed and will be constructed, maintained and operated in accordance with 2012 National Electrical Safety Code C2-2012.

Safety Division Staff reviewed the specifications related to the design and construction of this crossing project as provided in the petition, the attachments, and all supplemental support documents, and found them to be in conformance with the applicable sections of NESC code C2-2012 and Puc 400.

### **4. Review of public need and public impact**

In order to meet the reasonable requirements of telecommunication services to the public, FirstLight proposes to build and maintain communication cables in Miller State Park, in Peterborough and Temple, New Hampshire.

FirstLight asserts in the petition that the proposed license for this crossing may be exercised without substantially affecting the rights of the public in the public lands of the Miller State Park. Minimum safe line clearances above the land surface will be maintained at all times. The use and enjoyment of the state owned land by the public will not be diminished in any material respect as a result of the overhead line crossings.

Safety Division Staff concludes the impact to the public will not be significant due to the projects construction requirements. The proposed crossings do not appear to affect the rights of the public in the public land of the Miller State Park because minimum safe line clearances above the land surface will be maintained at all times allowing for safe hiking activities in the park.

**Staff Recommendation:**

Based on the results of its review of the petition, its attachments, and all other supporting documents filed to this docket, the Safety Division Staff recommends that the Commission:

1. Find that the license FirstLight requests in this docket may be exercised without substantially affecting the public rights in the public lands which are the subject of the petition;
2. Grant FirstLight a license to construct, operate and maintain communication cables, over and across the public lands of Miller State Park, in Peterborough and Temple, New Hampshire, as specified in the petition; and
3. Issue an Order Nisi and orders for its publication.

## **Staff Attachments**

**Map 1:** Firstlight Fiber communications cable, is a span of approximately 1.861 feet between Pole 37/47 and Pole 81/11, from a total of 5,184.00 feet across state owned land in the Towns of Peterborough and Temple, New Hampshire known as Miller State Park.



**Map 2:** Firstlight Fiber communications cable, is a span of approximately 1.719.0 feet between Pole 81/12 and Pole 81/21, from a total of 5,184.00 feet across state owned land in the Towns of Peterborough and Temple, New Hampshire known as Miller State Park.

**Map 3:** Firstlight Fiber communications cable, is a span of approximately 1,604.0 feet between Pole 81/21 and Pole 81/29, from a total of 5,184.00 feet across state owned land in the Towns of Peterborough and Temple, New Hampshire known as Miller State Park.