

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2012 TERM

No. 2011-0762

**Appeal of Comcast Phone of New Hampshire, LLC and
Comcast IP Phone II, LLC**

**OBJECTION TO
MOTION FOR PERMISSION TO FILE A REPLY**

NOW COME the appellees, the incumbent carriers (excluding affiliates of FairPoint Communications, Inc.) of the New Hampshire Telephone Association, a New Hampshire voluntary corporation (the “RLECs”), and pursuant to Supreme Court Rule 21(3) respectfully object to the Motion for Permission to File a Reply (“Motion to Reply”) filed on September 12, 2012 by the appellants (collectively “Comcast”) and state as follows:

1. Comcast has requested that the Court permit it to file a Reply to the Objections of the RLECs and the New Hampshire Public Utilities Commission (the “Commission”) to Comcast’s Motion to Vacate, in order to respond to assertions, arguments and “characterizations” regarding Senate Bill 48. The Court should deny the Motion to Reply because the objections to the Motion to Vacate raised no new issues or arguments or otherwise created any need for reply. With its original Motion to Vacate and its Motion to Reply, Comcast seeks to persuade this Court to conduct a proceeding, on briefs alone, regarding the proper interpretation of recently enacted Senate Bill 48. Not only was this issue not raised in the subject appeal, but Comcast is essentially asking this Court to issue a ruling of momentous import without the benefit of a record hearing before the Commission, the administrative agency tasked with implementing the statute.

2. Comcast has had its opportunity to state with particularity the grounds on which the Motion to Vacate is based, and this Motion presumably anticipated the possible objections to these grounds. The RLECs and the Commission have responded directly to Comcast's arguments, without expanding the issues, and Comcast has not alleged that either of the Objections contains a misstatement of fact or law that requires correction. Instead, it merely has stated that the RLECs and the Commission have a "misunderstanding" of Comcast's position. Motion for Reply at 2. Resolving such misunderstandings between parties is the purview of the Court, which now possesses legally sufficient information to do so.

3. Comcast should not be permitted to use motions practice to expand the issues on appeal, nor should it be permitted to seek the Court's ruling on a significant issue that has yet to be addressed by the agency to which it applies. The RLECs respectfully request that this Court deny the Motion to Reply.

Respectfully submitted,
BRETTON WOODS TELEPHONE COMPANY, INC.
DIXVILLE TELEPHONE COMPANY
DUNBARTON TELEPHONE COMPANY, INC.
GRANITE STATE TELEPHONE, INC.
HOLLIS TELEPHONE COMPANY, INC.
KEARSARGE TELEPHONE COMPANY
MERRIMACK COUNTY TELEPHONE
COMPANY
WILTON TELEPHONE COMPANY, INC.

By Their Attorneys,
DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated: September 17, 2012

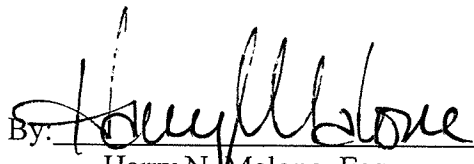
By: 

Harry N. Malone
111 Amherst Street
Manchester, NH 03101
(603) 695-8532
hmalone@devinemillimet.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Objection was forwarded this day to the parties by first class mail.

Dated: September 17, 2012

By: 
Harry N. Malone, Esq.