

State of New Hampshire
Before the New Hampshire Public Utilities Commission

Docket No. DT 12-084

Time Warner Entertainment Company, L.P.
d/b/a Time Warner Cable

v.

Public Service Company
of New Hampshire

PETITION FOR INTERVENTION OF ELEVEN MEMBERS OF
THE NEW HAMPSHIRE TELEPHONE ASSOCIATION

August 20, 2012

Submitted on behalf of:

BRETTON WOODS TELEPHONE COMPANY, INC.
DIXVILLE TELEPHONE COMPANY
DUNBARTON TELEPHONE COMPANY, INC.
GRANITE STATE TELEPHONE, INC.
NORTHERN NEW ENGLAND TELEPHONE OPERATIONS, LLC
D/B/A FAIRPOINT COMMUNICATIONS - NNE
NORTHLAND TELEPHONE COMPANY OF MAINE, INC.
D/B/A FAIRPOINT COMMUNICATIONS – NORTHLAND TELEPHONE COMPANY OF MAINE
TDS TELECOM/HOLLIS TELEPHONE COMPANY, INC.
TDS TELECOM/KEARSARGE TELEPHONE COMPANY
TDS TELECOM/MERRIMACK COUNTY TELEPHONE
TDS TELECOM/ UNION TELEPHONE COMPANY, INC.
TDS TELECOM/WILTON TELEPHONE COMPANY, INC.

State of New Hampshire

Before the New Hampshire Public Utilities Commission

Docket No. DT 12-084

**Time Warner Entertainment Company, L.P.
d/b/a Time Warner Cable**

v.

**Public Service Company
of New Hampshire**

**PETITION FOR INTERVENTION OF ELEVEN MEMBERS OF
THE NEW HAMPSHIRE TELEPHONE ASSOCIATION**

Eleven independent New Hampshire incumbent local exchange carriers who are members of the New Hampshire Telephone Association (the "Eleven ILECs"),¹ by and through the undersigned counsel and pursuant to RSA 541-A:32 and N.H. Admin. Rule Puc 203.17, respectfully petition the New Hampshire Public Utilities Commission ("NHPUC") to grant intervention to the Eleven Independents in the present proceeding.

In support of their Motion, the Eleven ILECs state as follows:

1. On March 30, 2012, Time Warner Entertainment Company, L.P. d/b/a Time Warner Cable ("TWC") petitioned the NHPUC to resolve a dispute between TWC and the Public Service Company of New Hampshire ("PSNH") regarding the rates TWC should pay to PSNH for their attachments to poles owned or partly owned by PSNH.

¹ The Eleven ILECs are: Bretton Woods Telephone Company, Inc.; Dixville Telephone Company; Dunbarton Telephone Company, Inc.; Granite State Telephone, Inc.; Northern New England Telephone Operations, LLC d/b/a FairPoint Communications - NNE; Northland Telephone Company of Maine, Inc. d/b/a FairPoint Communications – Northland Telephone Company of Maine; TDS Telecom/Hollis Telephone Company, Inc.; TDS Telecom/Kearsarge Telephone Company; TDS Telecom/Merrimack County Telephone Company; TDS Telecom/Union Telephone Company, Inc.; and TDS Telecom/Wilton Telephone Company, Inc.

2. TWC and PSNH are also parties to a related lawsuit now pending in the United States District Court for the District of New Hampshire. *Public Service Company of N.H. v. Time Warner Entertainment Company, L.P.*, Case No. 12-CV-98-PB, Notice of Removal (Mar. 12, 2012).

3. TWC's petition and the associated lawsuit were initially understood by the Eleven Independents to be limited to a dispute regarding the performance of three contracts between TWC and PSNH.

4. By its Order of Notice dated May 2, 2012, the PUC set a May 21, 2012 deadline for interventions and a prehearing conference date of May 24, 2012 to be followed immediately by a technical session involving the parties and any intervenors.

5. Comcast Cable Communications Management, LLC, Comcast of New Hampshire, Inc., Comcast of Massachusetts/New Hampshire, LLC and Comcast of Maine/New Hampshire, Inc. (collectively, "Comcast"), segTEL, Inc. ("segTEL") and Unitil Energy Systems, Inc. ("Unitil") moved to intervene, which motions were ultimately granted on July 3, 2012 pursuant to PUC Order No. 25,387.

6. This Commission granted Comcast, segTEL and Unitil's petitions to intervene because (a) pole owners are required to provide non-discriminatory access to their poles and (b) contract provisions that are substantially similar to the provisions that are at issue in this Docket will likely be interpreted in the future in accord with the outcome of this Docket. This Docket, therefore, will likely affect contractual arrangements between other utilities situated similarly to the initial parties, TWC and PSNH. This Commission reasoned that it will therefore advance administrative efficiency to allow Comcast and segTEL, as attaching entities, and Unitil, as a pole-owning utility, to intervene pursuant to RSA 541-A:32, II.

7. The Eleven ILECs are New Hampshire public utilities under RSA 362:2, I and incumbent local exchange carriers (“ILECs”) as defined in RSA 362:7, I(b) and 47 U.S.C. § 251(h).

8. The Eleven ILECs, like Comcast, segTEL and Unitil, have rights, duties, privileges, immunities and other substantial interests that may be affected by the present proceeding.

9. All of the Eleven ILECs are attaching entities. Most of the Eleven ILECs are pole-owning utilities.

10. Most of the pole-owning Eleven ILECs have pole attachment contracts with one or more of the current parties of this Docket. For example, Northern New England Telephone Operations d/b/a FairPoint Communications – NNE and Northland Telephone Company of Maine, Inc. d/b/a FairPoint Communications – Northland Telephone Company of Maine own and co-own utility poles to which TWC, Comcast and segTEL currently attach. Dunbarton Telephone Company, Inc. owns utility poles to which Comcast and segTEL currently attach.

11. Certain provisions in contracts between the pole-owning ILECs and current and future attaching entities are likely to be similar if not identical to the contract provisions that will be evaluated in this Docket. Decisions rendered in this case would likely affect future interpretations by this Commission of such similar provisions, particularly if the contracts involve segTEL, Comcast or TWC.

12. As the impact of this Docket will not be limited to the contracts between TWC and PSNH and will likely also affect the rights, duties, privileges, immunities or other substantial interests of the Eleven ILECs, it is appropriate that the NHPUC grant the Eleven ILECs’ motion to intervene in this matter.

13. The Eleven ILECs recognize that a 360-day timeframe governs this Docket, that a schedule has been set, that testimony has been filed by the attaching entities and data requests pertaining to that testimony have been delivered. The Eleven ILECs do not seek to disturb the schedule as set and will accept the record as they find it.

14. Allowing intervention of the Eleven ILECs at this time will not impair the interests of justice and the orderly and prompt conduct of the present proceeding. In fact, participation by the Eleven ILECs in the current proceeding will enhance the proceeding by providing a broader view of the pole-owning utilities' perspective of the common contract provisions at issue in this Docket.

15. Moreover, as the Eleven ILECs seek to intervene and participate as a group, rather than as eleven separate entities, their participation as members of the NHTA in the current Docket will serve administrative economy and enhance the orderly and prompt conduct of this proceeding.

16. Based on the foregoing, the Eleven ILECs assert that they satisfy the requirements for intervention under RSA 541-A:32, I-II.

WHEREFOR, the Eleven ILECs petition the NHPUC to grant the aforesaid petition for intervention.

DATED at Montpelier, Vermont this 20th day of August, 2012.

Respectfully submitted,

BRETTON WOODS TELEPHONE COMPANY, INC.
DIXVILLE TELEPHONE COMPANY
DUNBARTON TELEPHONE COMPANY, INC.
GRANITE STATE TELEPHONE, INC.
NORTHERN NEW ENGLAND TELEPHONE OPERATIONS, LLC D/B/A FAIRPOINT
COMMUNICATIONS - NNE
NORTHLAND TELEPHONE COMPANY OF MAINE, INC. D/B/A FAIRPOINT
COMMUNICATIONS – NORTHLAND TELEPHONE COMPANY OF MAINE
TDS TELECOM/HOLLIS TELEPHONE COMPANY, INC.
TDS TELECOM/KEARSARGE TELEPHONE COMPANY
TDS TELECOM/MERRIMACK COUNTY TELEPHONE
TDS TELECOM/ UNION TELEPHONE COMPANY, INC.
TDS TELECOM/WILTON TELEPHONE COMPANY, INC.

By: PRIMMER PIPER EGGLESTON & CRAMER PC

By: 

Paul J. Phillips, NH Bar # 20788
Cassandra LaRae-Perez, Esq., NH Bar # 19648
Primmer Piper Eggleston & Cramer PC
100 East State Street, PO Box 1309
Montpelier, Vermont 05602
(802) 223-2102
pPhillips@primmer.com
claraeperez@primmer.com

**State of New Hampshire
Before the New Hampshire Public Utilities Commission**

Docket No. DT 12-084

**Time Warner Entertainment Company, L.P.
d/b/a Time Warner Cable**

v.

**Public Service Company
of New Hampshire**

SERVICE LIST

Original + 6 Copies + E-mail:

Debra A. Howland
Executive Director & Secretary
N.H. Public Utilities Commission
21 S. Fruit St., Suite 10
Concord, NH 03301-2429
executive.director@puc.nh.gov

1 Electronic Copy to:

N.H. Public Utilities Commission:
arnanda.noonan@puc.nh.gov
david.goyette@puc.nh.gov
kate.bailey@puc.nh.gov
rmatthew.fossum@puc.nh.gov
rmichael.ladarn@puc.nh.gov
steve.mullen@puc.nh.gov
tom.frantz@puc.nh.gov

N.H. Office of Consumer Advocate:
Christina.Martin@oca.nh.gov
Rorie.E.P.Hollenberg@oca.nh.gov

Time Warner Entertainment Company L.P. d/b/a
Time Warner Cable, through counsel Pierce
Atwood and Davis Wright Tremaine LLP:
danderson@pierceatwood.com
mkenney@pierceatwood.com
mariabrowne@dwt.com
Julie.laine@twcable.com

Public Service Company New Hampshire:
jennifer.ducharme@psnh.com
robert.bersak@psnh.com
christopher.allwarden@nu.com
michael.hall@nu.com
allen.desbiens@psnh.com

Unitil Energy Systems, Inc.
eppler@unitil.com

segTEL, Inc.
kath@segTEL.com
jeremy@segTEL.com

Comcast Cable Communications Management,
LLC, Comcast of New Hampshire, Inc., Comcast of
Massachusetts/New Hampshire, LLC and Comcast
of Maine/New Hampshire, Inc. through counsel Orr
& Reno, P.A.:
sgeiger@orr-reno.com
stacey_parker@cable.comcast.com

Liberty Utilities
sarah.knowlton@libertyutilities.com

Harry N. Malone
Abigale Chesley
Devine Millimet & Branch PA
hmalone@devinemillimet.com
achesley@devinemillimet.com