



New England Cable & Telecommunications Association, Inc.

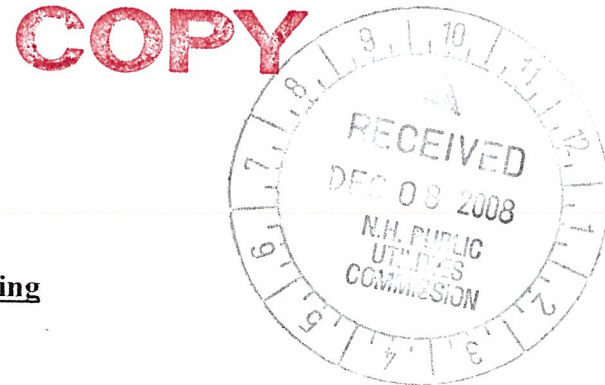
New England Cable & Telecommunications Association, Inc.

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Via Electronic Filing and FedEx

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301-2429



Re: Docket No. DRM 08-004, Pole Attachment Rulemaking

Dear Ms. Howland:

I am writing on behalf of the New England Cable Television and Telecommunications Association, Inc. ("NECTA") pursuant to the Staff's request for comments in its December 3, 2008 Report concerning the November technical session held in the above-captioned docket. First, NECTA would like to commend the staff for developing draft rules that purport to balance the state's interest in broadband deployment, attachers' interests in rapid deployment of competitive services, and the pole owners' asserted interests in controlling their facilities. Restoring balance to an otherwise unlevel playing field is a key component of pole attachment regulation.

Among the issues in this proceeding is what pole attachment rental formula(s) New Hampshire should adopt at the end of the two year certification transition period. NECTA firmly believes that adoption of the FCC cable formula for all attachments is necessary to ensure robust deployment of broadband facilities throughout the state.

State regulators and service providers alike understand that broadband deployment to rural areas is both a necessity and a challenge. To incent private investment in broadband deployment, New Hampshire's neighbor, Massachusetts, recently created a broadband initiative fund of up to \$40 million to incentivize public/private partnerships which result in new broadband deployment solutions. *See Governor Duval Patrick Signs Broadband Access Law* <http://www.mtpc.org/broadband/legislation/Broadbandpr808.pdf>. Another neighbor, Vermont, adopted reduced pole rates for telecommunications services to encourage deployment of facilities based competition. *See Vermont PSB Rule 3.700 et seq.* All other certified states that have considered the FCC's so-called "telecommunications formula," including Massachusetts, Connecticut and New York, have rejected it. Instead, most certified states have adopted the FCC cable formula for all attachments, resulting in lower pole attachment rates and more affordable broadband deployment.

Adopting a pole rental formula that produces rates that are higher than the FCC cable rate is at cross purposes with New Hampshire's own mandate to enhance rural broadband deployment. NH RSA 12-A:45 (charging the director of economic development to "Work with providers of telecommunications services, educators, and municipal, county, state, and other government officials to assist efforts to enhance the deployment of telecommunications services). Economic experts that have looked at this issue agree that states that have adopted formulas producing rates north of the cable rate have experienced real cost increases and created deployment deterrents.

For example, Michael Pelcovits, a principal with the economic consulting firm of Microeconomic Consulting and Research Associates (MicRA), MIT graduate and former FCC economist, concluded that a pole rate increase would result in an annual broadband cost increase of \$10 to \$34 per customer. Declaration of Dr. Michael D. Pelcovits, Appendix B of Comments of NCTA, WC Docket 07-245 (March 7, 2008). Billy Jack Gregg, a consumer advocate in West Virginia, estimates that the annual broadband cost increase in West Virginia (a state with a similar terrain and population size to New Hampshire) would exceed \$4 million, or \$21.33 per basic subscriber. Declaration of Billy Jack Gregg, App A of Reply Comments of NCTA, WC Docket 07-245 (April 22, 2008). Charter Communications estimates that pole cost increases raise cost \$4.95-\$8.66 per rural Internet subscriber per month. Comments of Charter Communications WC Docket 07-245 (Mar. 7, 2008), Tables 1-3.

Given these real cost increases and clear impediments to investment created by increased pole rents, New Hampshire should adopt the FCC's cable formula to apply at the end of the two year transition period thereby showing its clear support for the deployment of broadband infrastructure to rural areas of the state and encouraging continued investment in broadband by private individuals and businesses. NECTA's specific proposed changes to New Hampshire PUC rule 1304.05 are attached.

Please contact the undersigned with any questions or comments you may have. Thank you for your assistance with this filing.

Sincerely,

/s/ William Durand

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cc: Lynn Fabrizio, Commission Staff
Ms. Meredith A. Hatfield (Consumer Advocate)
Commission's Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic to the person(s) listed below on this 5th day of December, 2008:

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