STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Time Warner Entertainment Company L.P. d/b/a Time Warner Cable Petition for Resolution of Dispute with Public Service Company of New Hampshire

DT 12-084

PREFILED DIRECT TESTIMONY OF GLENN FIORE and CHRISTOPHER HODGDON

ON BEHALF OF

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC
COMCAST OF NEW HAMPSHIRE, INC.
COMCAST OF MASSACHUSETTS/NEW HAMPSHIRE, LLC
COMCAST OF MAINE/NEW HAMPSHIRE, INC.

July 20, 2012

PREFILED DIRECT TESTIMONY OF

GLENN FIORE and CHRISTOPHER HODGDON

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I. Introduction

Glenn Fiore

Q. Please state your name, position and business address.

A. My name is Glenn Fiore. I am a Senior Construction Manager for Comcast, Northeast Division. My office is located at 25 Industrial Avenue, Chelmsford, MA, but my responsibilities cover territory all over New Hampshire and Massachusetts.

Q. Please describe your employment responsibilities.

A. I provide technical guidance and support to the five operating regions that make up Comcast's Northeast Division in areas of outside plant construction, network planning and design, and pole attachment and conduit license agreements.

Q. Please summarize your background and experience in the cable industry.

A. I have worked in the cable industry for over 15 years, all with Comcast. I have held various front line, supervisory and management positions during this time. All of these roles have been in areas that involve Outside Plant Construction, Network Planning & Design, and Pole Attachment/Utility Relations responsibilities.

Q. Please describe your experience with respect to the issues raised in this proceeding and addressed in your testimony, including your familiarity with the regulatory framework regarding pole attachments in New Hampshire.

A. I have 15 years of experience working with utilities across New England in areas of pole licensing and pole attachments. I have prepared pole license applications covering thousands of poles, participated in numerous pole make-ready surveys, managed field construction personnel whose responsibilities have included obtaining pole and conduit licenses from utilities and designing and building out Comcast's network. I have facilitated the pole attachment agreement

renewal process with many investor-owned and municipal utilities that has involved reviewing draft agreements, providing suggested edits, and face to face negotiations. I am also a point of contact for utilities when the need arises to escalate an issue. In addition, I have over 10 years of experience managing the Comcast pole attachment budget account that involves preparing budget models, processing and approving pole attachment invoices received from utilities, and reviewing proposed pole attachment rate increases in New England states, including New Hampshire.

Christopher Hodgdon

Q. Please state your name, position and business address.

A. Christopher K. Hodgdon, Director of Legislative Affairs, Comcast, Northeast Division, 54 Regional Drive, Concord, NH.

Q. Please describe your employment responsibilities.

A. I am Comcast's Senior Director of Government Affairs. In that capacity, I advocate for Comcast's public policy priorities in the States of New Hampshire and Maine.

Q. Please summarize your background and experience in the cable industry.

A. I have been employed by Comcast as a Senior Director of Government Affairs since March 2006. I am responsible for developing and leading a government relations program designed to advance Comcast's public policy priorities in a range of policy areas involving the legislature, executive offices and departments in New Hampshire and Maine. I have served as a member of the Telecommunications Planning and Development Advisory Committee and served on the Broadband Action Plan Steering Committee, which developed New Hampshire's 2008 Broadband Action Plan. Additionally, I serve on the Department of Resources and Economic

Development Advisory Committee. Prior to joining Comcast, I was the President and CEO of the Greater Nashua Chamber of Commerce, a business advocacy organization with over 700 member businesses in the Southern New Hampshire region. Before leading the Chamber, I was a principal in Stepping Stone Management, LLC a political consulting firm with a specialty in organizational, media and fundraising consulting. I also serve on several local community boards, including the executive committee of the Granite State Children's Alliance and the Nashua Community College's Advisory Board. I am also a member of the New Hampshire Attorney Discipline System's Professional Conduct Committee. I graduated from George Washington University in 1995 with a BA in foreign policy.

Q. Please describe your experience with respect to the issues raised in this proceeding and addressed in your testimony, including your familiarity with the regulatory and legislative policy framework relating to cable operators in New Hampshire, as well as your familiarity with the New Hampshire legislature's recently adopted law SB 48, N.H. Laws of 2012, Ch. 177, available at http://www.gencourt.state.nh.us/legislation/2012/SB0048.pdf, which amended RSA 362 to generally prohibit regulating VoIP as a telecommunications service.

A. New Hampshire has sought to encourage the deployment of broadband and advanced services by adopting several public policy initiatives. These initiatives are designed to promote deployment by easing the regulatory burden on broadband providers as well as to lower the cost of broadband for the ultimate benefit of consumers. I am familiar with the provisions of SB 48 because I assisted in authoring the VoIP deregulation portions of RSA 362:7 of the legislation. The passage of SB 48 is notable because it confirms that VoIP and IP enabled services are not regulated as traditional telecommunications services. The lack of regulation of these services as

telecommunications services has enabled, in part, enormous investment and innovation in broadband networks and has transformed the manner in which we communicate. In 2012, the legislature also pursued policies designed to make broadband more affordable. HB 1418 established that the Communications Services Tax is not applicable to Internet access. By eliminating this consumer-paid tax on Internet access, the legislature sought to make broadband more affordable and therefore more available to New Hampshire consumers. Both of these recent policy developments are intended to make it easier and less expensive to provide advanced services to New Hampshire consumers. These policies are consistent with others that encourage broadband deployment, such as a uniform, reasonable pole attachment rate like the FCC's cable television rate.

II. Purpose of Testimony

Q. On whose behalf is this testimony filed?

A. This testimony is filed on behalf of 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").

Q. Please discuss the purpose of your testimony.

A. The purpose of our testimony is to provide the Commission with background information about Comcast's pole attachments, cable broadband networks, operations, service offerings and policy considerations, all of which support the position that the Commission should adopt a unified, reasonable pole attachment rate formula applicable to all cable and competitive local exchange carrier ("CLEC") attachments and that formula should be set at or as close as possible to the Federal Communication Commission's ("FCC's") cable rate formula.

Mr. Fiore is responsible for the portions of this testimony that address network construction, service offerings and pole attachment processes and related issues. Mr. Hodgdon is responsible for the sections of this testimony relating to Comcast's New Hampshire broadband and enhanced services deployment and regulatory and legislative policies.

III. Summary of Testimony

Q. Please summarize your prefiled testimony.

A. This testimony describes Comcast's network and services offered in New Hampshire and explains the company's heavy reliance on pole attachments to deploy the company's services, including advanced competitive services like broadband and interconnected voice over Internet protocol ("interconnected VoIP") to its residential, business, government and non-profit customers. We also explain the process of establishing pole attachments including how pole owners are fully reimbursed by Comcast for each step the pole owner takes to evaluate an attachment application and then make space on or to replace a pole to accommodate a new Comcast attachment. Once all the pole owner's costs are covered as a result of Comcast's payment made to the utility in order to attach, the utility then also receives annual rent from Comcast and other attachers. After the attachment is in place, there is no additional cost or burden placed on a pole or the pole owner by the addition of a new Comcast service (e.g., interconnected VoIP, broadband or a new video channel) over an existing cable attachment. Any pole attachment rent increase sought by Public Service Company of New Hampshire ("PSNH") and other utilities for the addition of new services beyond cable television and broadband by charging a higher telecommunications rate is unjustifiable and will serve to increase Comcast's New Hampshire pole rent costs, possibly by up to several million dollars annually. Our testimony also describes some pole attachment agreement provisions that we

believe are unjust and unreasonable. Finally, our testimony discusses how public policy objectives, both at the FCC and in the State of New Hampshire, promote ubiquitous broadband deployment and other associated advanced communications services through a reasonable, uniform pole attachment rate set at or near the FCC's cable television rate.

IV. Testimony

Q. Please provide background information about Comcast, including its network and the services that it offers in New Hampshire.

A. Comcast is the largest cable multi-system operator in the United States. In the past decade, encouraged by the federal policy of promoting deployment of broadband services through a deregulatory environment, Comcast has invested billions of dollars to upgrade its network infrastructure. It has built a national and local network through which it offers a variety of advanced services, including, but not limited to, video programming, high-speed Internet access services (often called "cable modem" or "broadband" services) and interconnected VoIP services. Comcast also offers some business and wholesale services, including Comcast Business Class and backhaul for wireless companies. Comcast currently has 22.3 million cable customers, 18.6 million high-speed Internet customers and 9.5 million VoIP customers nationwide. Comcast has built its network entirely with its own risk capital, and without any rate-of-return guarantees or universal service fund subsidies. Comcast is heavily invested in New Hampshire. Its Northeast Division headquarters is in Manchester, New Hampshire, and the division's 1,600 New Hampshire employees work and live in the 105 communities that Comcast serves. At a time when other companies have decreased their investment in communications, in 2011, Comcast invested over $100 million in New Hampshire to expand and upgrade its facilities, networks and infrastructure, all in support of bringing advanced services and

competitive choices to its New Hampshire customers. Comcast's facilities pass approximately 463,000 New Hampshire homes and businesses. Comcast continues to explore opportunities to extend its network in the communities it serves. Between 2007 and 2011 Comcast extended its network by 471 miles in New Hampshire, which represents an additional 19,871 residential and commercial passings. In addition to its fee-based services, Comcast also provides complimentary broadband services to schools, libraries and Boys & Girls Clubs. In 2011 Comcast contributed over $1.8 million in cash, public service announcements and in-kind services to New Hampshire libraries, schools and nonprofit entities. In 2011, Comcast also launched a new low cost broadband adoption program called Comcast Internet Essentials, that will be described in more detail later in the testimony.

Q. Please identify the Comcast entities that provide cable services in New Hampshire?

A. Comcast has four franchised cable affiliates in New Hampshire: Comcast of New Hampshire, Inc.; Comcast of Maine/New Hampshire, Inc.; Comcast of Massachusetts/New Hampshire, LLC; and Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC.

Q. Please describe generally how a cable television system operates and the services that are delivered.

A. Comcast operates its cable franchises through facilities primarily located in the public rights-of-way and in easements throughout New Hampshire based on franchise agreements it executes with each municipality. The cable television network itself consists of a central "headend," facility which receives cable television programming signals via satellite antenna, microwave or fiber feeds, as well as, a network of distribution facilities used to deliver cable television programming between the headend and the homes or places of business of subscribers.

The distribution network facilities consist of wires, fiber-optic cable, coaxial cables, or other conductors, supporting strand, amplifiers, power supplies, and associated equipment that are usually installed on utility poles in public rights-of-way. In order for a subscriber to receive cable television service, the subscriber must have access to a television set that is connected to the cable system's headend through the distribution network.

While early cable television systems provided only enhanced broadcast television reception, over time, cable television systems also provided supplemental entertainment services consisting of satellite-transmitted television programming, such as HBO and ESPN. Today's "third generation" cable television systems, such as Comcast's network in New Hampshire, provide an expanded range of viewing, information, entertainment, educational and other services for residential and business customers. Cable technology enhancements also enable the provision of services such as broadband, interconnected VoIP, digital video, audio services, video calling, high-definition television, Metro Ethernet and wireless backhaul services in some areas.

Q. Please explain the importance of utility poles to Comcast's network deployment and delivery of services to customers.

A. Comcast relies heavily on utility owned and controlled poles in order to construct its cable television plant and to distribute all services to its customers. Comcast and other attachers are prevented from setting their own poles by local governments, environmental concerns and economic factors and there is no practical alternative except to lease space on existing telephone and electric poles. *See* Prefiled Direct Testimony of Patricia Kravtin on Behalf of Time Warner Cable, Comcast Cable Communications Management, LLC, Comcast of New Hampshire, Inc., Comcast of Massachusetts/New Hampshire, LLC and Comcast of Maine/New Hampshire, Inc. in

Docket No. DT 12-084 (hereinafter "Kravtin Testimony") (July 20, 2012) at 36. In New Hampshire, Comcast has attachments on almost 400,000 utility poles, including over 135,000 attachments on poles owned in whole or part by PSNH. Most Comcast attachments in New Hampshire are on poles jointly owned by telephone and electric utilities.

Q. Please explain how Comcast establishes the right to attach its facilities to utility poles.

A. Comcast obtains the right to attach to poles through pole attachment agreements[1] with utilities (including PSNH) that set forth the price, terms and conditions for attachment. Diligent regulatory oversight by the FCC and regulatory agencies like the New Hampshire Public Utilities Commission ("PUC" or "Commission") is necessary to ensure that the prices, terms and conditions of these agreements are just and reasonable in light of pole owners' monopoly control over these essential facilities.

Q. Once a pole agreement is signed, please describe the next steps for establishing an attachment on a pole.

A. Comcast must submit an application to the pole owner and wait for approval before new facilities can be attached to the poles. In the case of a jointly owned pole, Comcast typically must submit an application to both utilities, and wait for approval from both utilities. This is the case with most attachments to PSNH poles, most of which are jointly owned with telephone companies. Most utilities, including PSNH, charge Comcast up-front application fees per pole to process its pole attachment applications. This up-front charge typically includes fees for the pole owner's engineering review and a field survey to review the poles in the application to determine if they can accommodate Comcast's proposed attachments without any necessary modification

[1] Representative examples of these agreements are contained in Attachments 3 and 4 of this testimony.

or whether the poles will require "make-ready" (i.e., rearrangement of existing facilities on the pole) or replacement with taller or stronger poles. Representative examples of invoices for make-ready work are attached as Attachment 1.[2]

If make-ready or pole replacement is required, Comcast's application will not be approved until Comcast has prepaid the cost of such rearrangement or pole replacements. To get a sense of the scale of these costs, a pole replacement by electric utilities typically costs up to several thousand dollars or more per pole. Comcast pays the entire cost of the installation of any new poles as well as the entire cost of other associated make-ready work. These new poles become the property of the electric utility. Comcast then pays the pole owner annual rent to make attachments on them even though Comcast has bought the pole for the utility. Thus, for each of Comcast's pole attachments, after paying all costs associated with establishing space on a pole for an attachment (i.e., application, engineering review, field survey and make-ready/pole replacement costs), Comcast also pays annual rent to the pole owner for every pole where it has an attachment. Some New Hampshire telephone companies have established unit price lists for certain routine make-ready activities.

Q. Please describe the physical characteristics of a conventional pole attachment arrangement.

A. A physical description of a conventional pole attachment arrangement on a jointly owned pole (typically installed in 35, 40 and 45 foot lengths) is set forth below:

[2] Note that the National Grid invoice provides itemized detail concerning the make-ready charges. By contrast, the PSNH invoice does not itemize and simply bills over $15,000 for unspecified work on thirteen poles.

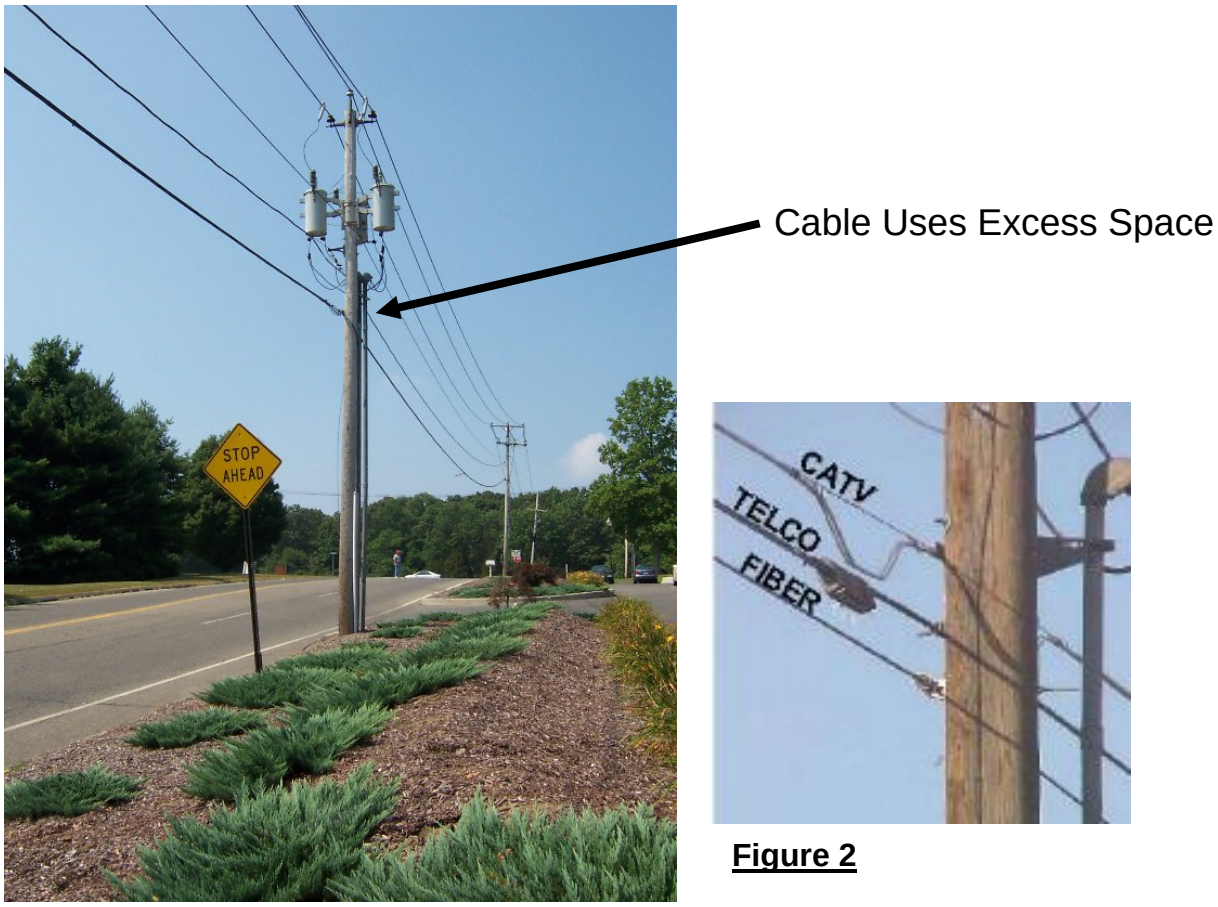

Figure 1

Figure 2

Typically, the telephone company line occupies the lowest attachments, cable is 12 inches above telephone, and then the lowest electric utility line is above cable separated by 30 to 40 inches, as specified by the National Electric Safety Code. The separation space between cable and electric lines can be used for things like streetlight brackets. The sharing of pole space can be abstracted into a schematic shown in Figure 3, below, which demonstrates how pole space is commonly utilized by telephone, cable and power lines all the way to the top of the pole.

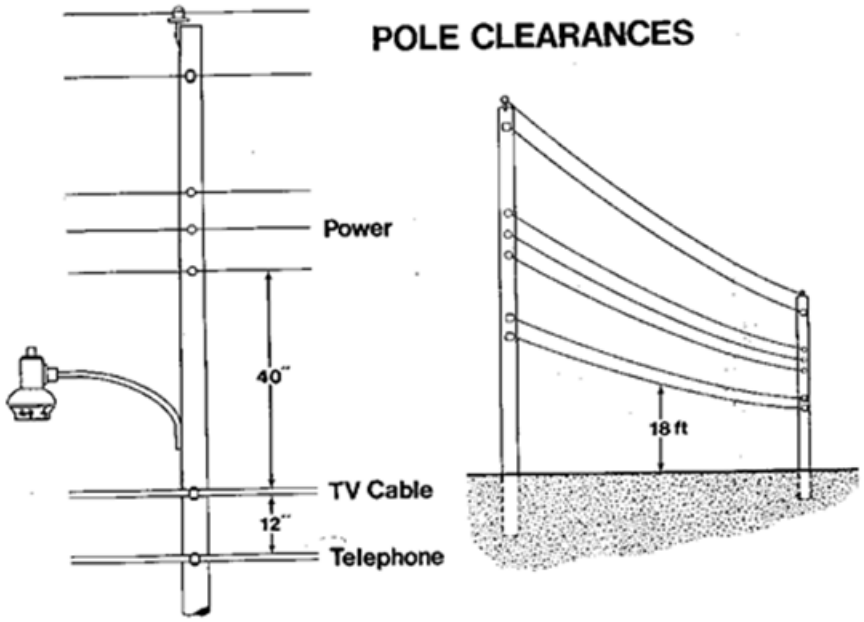

Figure 3

Q. Please describe a typical cable pole attachment.

A. A typical cable pole attachment consists of a single bolt through the pole attached to a bracket for a steel messenger line to connect to. The actual communications conductors (e.g., coaxial cable, wire or fiber) are lashed to that steel messenger as shown below.

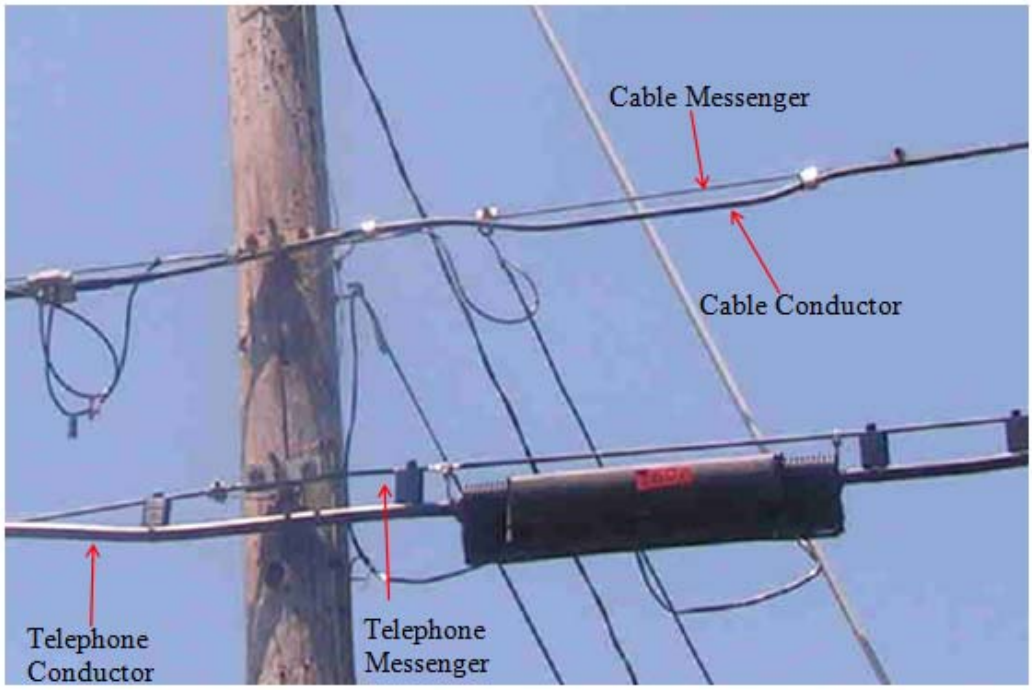

Figure 4

Q. Please explain what additional cost to the pole owner or burden is created on a pole, if any, when Comcast adds a new service to be transmitted over its existing attachment on a utility pole.

A. There is no additional cost to the pole owner or burden created when Comcast delivers a new service over an existing wire or fiber-coaxial cable running over an existing attachment. For example, Comcast's typical attachment consists of a two-inch bracket bolted to a pole that supports a messenger strand. Comcast's cable and fiber is attached (i.e., "overlashed") to this messenger strand held in place by the bracket. When Comcast transmits additional data over its fiber to add a new video channel or new advanced service such as broadband or VoIP, there is absolutely no impact on the pole attachment. No additional space is required on the pole and no additional costs are experienced by the pole owner. The utilization of pole capacity by the cable

attachment shown above remains unchanged whether or not VoIP is transmitted over the network in addition to video and broadband.

Q. Please explain the impact on Comcast if pole owners in New Hampshire are permitted to increase annual pole attachment fees as sought by PSNH for interconnected VoIP services.

A. Comcast currently pays over $2.3 million annually in pole attachment fees to pole owners in New Hampshire based upon the FCC cable television rate formula. If the PUC allows utilities to charge pole attachment rent in accordance with the formula advocated by PSNH (i.e., the old FCC telecom rate formula), Comcast's annual pole attachment rent payments to pole owners in New Hampshire could more than double. For example, PSNH's pole rent for cable and Internet attachments on jointly owned poles (which represents the vast majority of Comcast's PSNH attachments) in 2012 is $5.04 per pole, while its "communications" rent (based on the FCC's old telecom formula) is a startling $11.48 on joint poles in non-urban areas—more than double the rent, which in Comcast's case supports the identical attachment without any change to the attachment or the space used. *See* PSNH 2012 Pole Attachments Rates Calculations Using 2010 FERC Form 1 Data filed in Docket DT 12-084 (June 8, 2012).

Q. Please identify any other pole owners in New Hampshire that charge Comcast a pole attachment rate higher than the cable television rate where Comcast provides interconnected VoIP service over its network (as opposed to just cable service and broadband.)

A. No other New Hampshire pole owners other than PSNH and Unitil charge a different, higher attachment rate for interconnected VoIP attachments.

Q. Assuming that the PUC were to allow a different, higher pole rate for telecommunications attachments, should that higher rate apply to poles carrying Comcast's interconnected VoIP traffic?

A. No, it should not. Interconnected VoIP is not now and has never been classified as a "telecommunications" service for pole attachment purposes, or for any purpose at the FCC. Although the PUC ruled in August 2011 that interconnected VoIP was a telecommunications service (for purposes that did not include pole attachment rates or regulation), SB 48 establishes that VoIP is not subject to regulation as a telecommunications service in New Hampshire. SB 48, N.H. Laws of 2012, Chapter 177 reforms telecommunications regulation by, among other things, creating a new entity, the "excepted local exchange carrier," which includes incumbent local exchange carriers ("ILECs") and any other providers of telecommunications services. SB 48 also establishes a separate regulatory regime for interconnected VoIP and IP enabled services and provides that these services are regulated differently than telecommunications services. Further, in the New Hampshire House Science, Technology and Energy Committee's Report of Ought to Pass, Committee Vice Chairman Frank Holden noted that the legislation accomplishes four public policy goals, one of which is to confirm that interconnected VoIP is not regulated as a telecommunications service:

> This bill modernizes the regulation of telecommunications services in four important ways. One, it offers local exchange carriers relief from monopoly era retail regulation, freeing them to compete more effectively. *Two, it confirms that Voice over Internet Protocol services and IP enabled services are not subject to regulation as telecommunications services in New Hampshire.* Three, it preserves Incumbent local exchange carrier obligations to serve as the carrier of last resort and ensures that all

residents have an affordable Basic Service option for phone service. Four, it preserves incumbent local exchange carrier obligations to provide wholesale services to competitors further encouraging competition among providers. Today's communications landscape offers consumers more choice of providers and services than at any other time in history. Modernization of monopoly era regulations will further encourage investment and innovation in New Hampshire's communications infrastructure. The committee believes that this legislation finds the right balance between continued Public Utilities Commission oversight and modernization of regulation to allow consumers and the state of New Hampshire to benefit from a highly competitive communications environment. House Calendar, Vol. 34, No. 37 (May 11, 2012), Page 2046-2047 (emphasis added).

Moreover, the FCC has been requested by pole owners to apply the telecommunications pole formula to VoIP but has never done so.[3]

Q. How long has PSNH has been billing Comcast under the old FCC telecom formula related to Comcast's provision of interconnected VoIP?

A. By invoices dated July 3, 2008, and thereafter, PSNH has billed Comcast under the old FCC telecom formula even though Comcast provides interconnected VoIP services.

Q. Did Comcast ever notify PSNH that the old FCC telecom formula did not apply to interconnected VoIP attachments and that PSNH's "cable and internet" rate formula should apply instead?

A. Yes. By letter dated July 10, 2008, Comcast notified PSNH that Comcast no longer provided switched telephone service (i.e., telecommunications services) in PSNH service areas,

[3] See Pleading Cycle Established For Comments On Petition For Declaratory Ruling of American Electric Power Service Corporation, et al. Regarding the Rate For Cable System Pole Attachments Used To Provide Voice Over Internet Protocol Services, Public Notice, WC Docket No. 09-154, DA 09-1879, 24 FCC Rcd 11001 (2009).

which telecommunications services had been appropriately billed under the old FCC telecom formula (applicable during that pre-July 2008 period), but that Comcast was now providing interconnected VoIP that is subject to the FCC cable rate formula. *See* Attachment 2.

Q. Please identify any other rate-related provision of the PSNH and Unitil pole attachment agreements that you find unjust or unreasonable.

A. The following pole attachment agreement provisions, which appear in both PSNH and Unitil (collectively, the "Utilities") pole agreements, impose unjust and unreasonable conditions on attachers. (Representative examples of the PSNH and Unitil pole agreements with Comcast are attached as Attachments 3 and 4, respectively):

- Subsection 3.1.3
  - The provision presumes that a rate change is "acceptable" to an attacher if an attacher does not challenge the change at the PUC within a 30 day period during the 60 day rate change notice period. The unreasonableness of the limited 30 day window is readily apparent as it does not even provide an attacher with a realistic opportunity to obtain the information necessary to perform the calculations to verify whether the new rate complies with the relevant pole rate formula. Certain key data points in these pole rent calculations are in the sole possession of the Utilities such as its pole count and rate of return and this information is not provided by the Utilities to attachers at the time that new rates are announced and the clock is running. Consequently, this provision unjustly and unreasonably compels attachers to petition the PUC on an annual basis when new rates are announced to protect the attachers' rights without the benefit of the

data necessary to evaluate the rates. An attacher should be able to challenge a rate that does not comply with the maximum just and reasonable rate under PUC regulations at any time. For example, the recently revised rules of the FCC (which, like the PUC, is charged with ensuring that pole attachment agreements are just and reasonable) follows this approach to protect attachers' rights and provides for the agency to order a utility to correct excessive rates and to require the refund of any paid rent charges that exceed what the appropriate rent formula allows back through the applicable statute of limitations period. 47 C.F.R. § 1.1410(a)(3).

- The provision also requires an attacher to pay the utility a disputed amount during the period in dispute. An attacher should not be required to pay a disputed amount unless the dispute is resolved against the attacher. The Utilities are the owners of monopoly pole assets and have tremendous leverage over attachers as manifested in this provision. There is no reason that the attacher should bear the burden of paying a disputed amount pending resolution of a dispute. The Utilities are sufficiently protected by PUC rules (i.e., N.H. Admin. R. Puc 1304.07) that allow them to collect any underpayments if they should prevail, plus interest.

- Subsection 3.4.1. The provision requires an attacher to pay a late fee of 1.5% of the amount due starting 30 days after the date of the utility's invoice. In addition, the provision allows the utility to change the late fee at any time "at its sole discretion" to "reflect prevailing market conditions." This late fee is unjust and

unreasonable and should be limited to the interest rate applied to pole refunds and under payments as provided in Puc 1304.08 – a rate equal to the prime rate. The PUC has already decided that the prime rate (which has been 3.25% since January 2009) is the just and reasonable interest charge that a utility can apply to overdue amounts and the Utilities should not be permitted to circumvent this decision through their excessive 18% annual "late fee." The Utilities retain the right under this unreasonable provision to change the late fee to reflect market conditions (presumably interest rate conditions), yet they have not done so despite the historic decline in market interest rates over the past several years.

- Subsection 3.5.1. This provision requires an attacher to pay disputed amounts in excess of $10,000 into an interest-bearing escrow account pending resolution of the dispute. This requirement is unjust and unreasonable and an attacher should not bear the burden of paying a disputed amount into escrow pending dispute resolution. The Utilities are the owners of monopoly pole assets and have tremendous leverage over attachers as manifested in this provision. There is no reason that the attacher should bear the burden of paying a disputed amount into escrow pending resolution of a dispute. The Utilities are sufficiently protected by PUC rules that allow them to collect any underpayments if they should prevail, plus interest.
- Subsection 3.5.2. This provision allows the Utilities to stop performing pole surveys, inspections or make-ready work and to stop issuing licenses and processing attachment applications if an attacher has not paid a disputed amount to the utility or into the escrow or has failed to follow dispute resolution

procedures under the contract. This requirement is unjust and unreasonable and a utility should not be permitted to terminate pole access during the course of a good faith billing dispute and place the burden on attachers to sacrifice rights if they do not pursue formal procedures at the PUC based on arbitrary deadlines imposed by the Utilities. As the owner of essential pole facilities, the Utilities should not be permitted to abuse their power over access to poles, which is critical to the deployment of infrastructure and broadband deployment, to pressure attachers to capitulate over good faith billing disputes. The Utilities are sufficiently protected by the PUC's existing remedies.

Q. Please provide some additional information regarding broadband deployment in New Hampshire. For example, the FCC has been very active recently with its stimulus funding to the states to complete broadband buildout. What is the impact of the stimulus funding in New Hampshire?

A. In February 2009, Congress passed the American Reinvestment and Recovery Act, which provided the Department of Commerce's National Telecommunications and Information Administration (NTIA) and the U.S. Department of Agriculture's Rural Utilities Service (RUS) with $7.2 billion to expand access to broadband services in the United States. The State of New Hampshire received over $60.1 million in federal grants for broadband infrastructure projects. This investment in New Hampshire was designed to help bridge the digital divide, improve access to education and healthcare services, and boost economic development for communities held back by limited or no access to broadband. Each of the six grant awardees will be required to attach to utility poles as they seek to complete the respective network buildout and, therefore, have engaged in pole attachment negotiations with the pole owners. Further, however, after the

subsidies have been used, each will continue to pay rent to these owners. These pole rents should be at the FCC cable rate in order to facilitate broadband deployment and adoption in New Hampshire as recommended in 2010 by the FCC's National Broadband Plan and as the FCC then ruled in its April 2011 pole decision that revised the telecommunications pole formula to equal the cable rate in most circumstances. Kravtin Testimony at 21-22, 27-31.

Q. Please provide some additional information about the state of broadband deployment in New Hampshire and the potential impact of higher pole attachment rates on broadband providers.

A. Heavy capital investment in broadband networks by Comcast and other cable companies coupled with a favorable regulatory regime, including pole attachment rates at the FCC's cable rate, have been a public policy success in New Hampshire. The most recent broadband deployment data available from the FCC illustrates the benefits of continuing this policy. The FCC's *Internet Access Services: Status as of June 30, 2012* (*available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0614/DOC-314630A1.pdf) confirms the wisdom of this policy. The report finds that non-pole owning cable providers like Comcast account for more than 77.5% of the fixed high-speed Internet connections with speeds of greater than 200 kbps one-way, and fully 82% of the fixed connections with speeds of greater than 3 Mbps one-way are provided by cable providers. Considering that some portion of the remaining 18% of these connections are owned by CLECs, which, like cable providers, rely on pole attachments rented from utility pole owners to support their networks, it is clear that the vast majority of broadband connections are provided by entities that pay pole attachment fees. As Ms. Kravtin explains in her testimony, pole attachments are a vital component of broadband deployment. Higher attachment rates, such as those advocated by PSNH, will undermine this

deployment and obstruct emerging competition and the development of new advanced communications services. Kravtin Testimony at 21-22, 27-28. Uniform attachment rates set at or near the FCC's cable rate, which are the rates that have been in place during the rapid deployment of broadband and advanced services in New Hampshire, should be required by the Commission.

Q. Please describe Comcast's broadband and advanced services commitment in New Hampshire.

A. Over the last year alone, Comcast has spent millions of dollars expanding its facilities and improving services through the construction of 63 additional miles of plant extensions in New Hampshire. In fact, wherever Comcast's cable network is deployed in New Hampshire, it has ubiquitously deployed broadband as well. This investment includes deployment of cable's DOCSIS 3.0 broadband standard which currently supports download speeds of 105 Mbps and Metro Ethernet deployment for commercial customers capable of providing scalable services from 1 Mbps to 10 Gbps. According to recent FCC data, New Hampshire has the second highest subscriber ratio nationally with a ratio of .79 subscribers to a fixed broadband service per household. In addition, as mentioned below, Comcast is committed to expanding not only broadband deployment, but broadband adoption through its Comcast Internet Essentials Program.

Q. Please describe the Comcast Internet Essentials Program?

A. Comcast Internet Essentials is a comprehensive broadband adoption program that offers discounted Internet service, affordable computers and digital literacy training to families with children who are eligible to receive free or reduced-price school lunches under the National School Lunch Program ("NSLP"). The program was created, with input from the FCC, to help

bridge the digital divide and ensure more Americans benefit from all the Internet has to offer. The Internet Essentials program addresses three primary barriers to broadband adoption that research has identified: 1) a lack of understanding of how the Internet is relevant and useful; 2) the cost of a home computer; and 3) the cost of the Internet service.

Internet Essentials provides low-cost, high-speed broadband service to eligible families for $9.95 a month (plus tax), the option to purchase a full-service, Internet ready computer for less than $150 (plus tax) and multiple options for digital literacy training in print, online and in person. Participants will be accepted into the program for at least three years, through the end of the 2013-2014 school year. Once in the program, participating families can benefit from Internet Essentials for the entire life of their child's K-12 education, as long as they remain eligible. There are no additional fees and no price increases. To qualify, families must: 1) live where Comcast offers Internet service; 2) have at least one child receiving free or reduced-priced school lunches through the NSLP; 3) have not subscribed to Comcast Internet service within the last 90 days; and 4) not have an overdue Comcast bill or unreturned equipment.

The program launched in New Hampshire during the 2011-2012 school year, and is offered wherever Comcast offers Internet service. Since its initial deployment in late 2011, Comcast has conducted meetings throughout New Hampshire with state and local partners, including the Department of Education, over 150 district school departments, and community outreach partners like the Boys & Girls Clubs, United Way, Girls, Inc., and Big Brothers Big Sisters to help spread the word.

Q. Why are the services described above relevant to the issues in this docket?

A. A uniform, lower pole attachment rate at, or close to, the FCC's cable rate will promote the continued deployment of these services. As addressed in Ms. Kravtin's testimony, both

federal and New Hampshire state policies support lower, uniform rates (like the FCC cable rate) to be paid by all eligible attachers in furtherance of the very important federal and state goals that are promoted by the programs described above.

Q. Is New Hampshire committed to these same goals?

A. Yes. New Hampshire recognizes the important public policy benefits of broadband deployment. As noted above, New Hampshire has recently adopted a broad legislative mandate to deregulate interconnected VoIP and IP-enabled services effective August 10, 2012. This step reflects policy goals to reduce the regulatory burden on the providers of these services so they can be deployed quickly and efficiently, and are not hampered by over-burdensome regulations, consistent with the federal mandates to promote such services through uniform, reasonable pole rates set at or near the FCC's cable rate. New Hampshire recognized the challenges associated with high and inconsistent pole attachment fees when in 2008 the state's Broadband Action Plan rated the issue of utility pole access generally as "critical" and specifically recognized pole attachment fees as a deterrent to increased deployment. Kravtin testimony at 28-29.

Q. How do the issues in this case relate to broadband deployment and the introduction of new broadband services?

A. As evident from the testimony above, widespread deployment of broadband networks has triggered an explosion of new, advanced services delivered by Comcast in New Hampshire over the past decade. There is no reason to believe that the proliferation of new, unanticipated services will abate as technology continues to evolve. However, the implementation of these new services in particular communities and states is highly dependent on the regulatory climate confronting deployment. Capital is scarce in today's economy and it will flow most freely to those states and communities that can attract it through forward-looking policies that do not

impose unnecessary and excessive costs. A key step that New Hampshire can take to remain on the cutting edge with regard to broadband deployment, competition, and the expansion of new services (like interconnected VoIP) is to continue the favorable regulatory environment that has contributed so much to today's broadband successes – specifically by adopting a uniform, reasonable pole attachment rate set at or near the FCC's cable television rate.

Q. Does this conclude your testimony?

A. Yes it does.

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