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April 2, 2013

Via Hand Delivery

Debra A. Howland
Executive Director and Secretary
NH Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301

NHPUC APR02'13 AM 11:29

Re: DT 12-107 – New Hampshire Optical Systems, Inc.

Dear Ms. Howland:

On behalf of New Hampshire Optical Systems, Inc. and Waveguide, Inc. (collectively “NHOS”), I am writing to call the Commission’s attention to information that bears on the accuracy of allegations in segTEL’s March 7, 2013 Comments to the Staff Report and Recommendation.

segTEL’s Comments allege that for several years segTEL has “successfully cooperated and coordinated in the performance of make-ready,” and that NHOS is the cause of the attachment issues cited in the Staff Report. These allegations are belied by segTEL’s recent conduct on utility poles on Pembroke Road in Concord. There, as in the cases of Franklin and Tilton, segTEL did not cooperate or coordinate with NHOS before proceeding with its work, and, instead, installed its fiber in a manner that infringes on NHOS’s licensed space. NHOS was licensed before segTEL on the Pembroke Road line, and installed its fiber at the licensed height 12 inches below the municipal facilities. When segTEL recently installed its fiber in Pembroke, it did not submit make-ready requests to NHOS, and instead placed its fiber less than 12 inches above NHOS’s fiber, and less than 12 inches below the municipal facilities. Photographs depicting examples of segTEL’s conduct on two poles – Pole 151/21 and Pole 151/22 – are attached as Exhibit A. All told, segTEL crowded NHOS’s fiber, as well as the municipal facilities, on approximately 75% of the poles on Pembroke Road line.

segTEL’s Comments also allege that “the pole attachment process worked fairly smoothly until NHOS arrived on the scene.” segTEL Comments, p. 4. This allegation is in contrast to segTEL’s prior filings with the Commission. On June 25, 2009, in comments submitted during rulemaking for Puc 1300, segTEL and two other CLECs (BayRing and Otel Telekom) represented they were prepared to submit testimony “related to specific impediments to deployment and competitive harm in New Hampshire” caused by utility pole practices, and alleged that pole access “has been repeatedly frustrated by incumbent *and third party activity*.” See 6/25/09 Comments on behalf of

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BayRing Communications, Otel Telekom, segTEL, Inc. in DRM 08-004, *Rulemaking, PUC 1300 Pole Attachments, Regular Rules*, p. 8 (emphasis added) [copy attached as Exhibit B]. segTEL and the other CLECs further alleged as follows:

When the NH-Based CLECs argue that anti-competitive practices effectively hamper the installation of high-speed networks in the state, they are not making theoretical arguments. Rather, they are describing current conditions that interfere with competition in New Hampshire.

Id. On the Middle-Mile project, segTEL is now engaging in the same anti-competitive practices that it decried during the Puc 1300 rulemaking process.

In conclusion, NHOS notes that segTEL's Comments offer no path for resolving the important issues raised in this proceeding. NHOS again supports, and urges the Commission to adopt, the recommendations set forth in the Staff Report.

Sincerely,



Christopher H.M. Carter
CHMC/smc

Enclosures

Cc: Client
Service List

#51525682