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***VIA HAND DELIVERY***

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

Re: DT 12-107; New Hampshire Optical Systems, LLC Petition for an Investigation into Proposed Charges for Utility Pole Make Ready

DT 12-246; Electric and Telephone Utilities; Review of Utility Pole Access Issues

Dear Ms. Howland:

This letter is submitted on behalf of Northern New England Telephone Operations LLC ("NNETO") in response to the Amendment to Petition for Investigation filed by New Hampshire Optical Systems, LLC ("NHOS") on August 2, 2012 (the "Amended Petition"), in Docket DT 12-107, and the Motions to Dismiss filed respectively by the CANNE group of competitive local exchange carriers and NECTA on August 13, 2012. While NNETO has not intervened in Docket DT 12-107, I want to (i) so advise the Commission that NNETO concurs with the CANNE and NECTA motions and supports their underlying reasoning and (ii) document that NNETO, as an incumbent carrier and pole owner, advocates the same position as that expressed by cable company representatives and competitive carrier representatives.

In Order No. 25,386, the Commission directed NHOS to file or update its complaint "so the entities *complained* against will be offered a fair opportunity to address the *complaint* [as provided in Rule Puc 204.02] and defend or explain their practices, and the Commission will have a complete record upon which to base its decision."[1] Notwithstanding this directive, NHOS instead filed a document that it essentially admitted was not in the proper form.[2] As such, NHOS has failed to "provide greater clarity and specificity about the particular acts or actors that NHOS alleges are improperly impeding its work."[3] NNETO agrees with CANNE and NECTA that NHOS has failed to provide specific or concrete factual examples to support its claims that "third-party attachers" in general have been unreasonable in their demands regarding make-ready

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[1] Order No. 25,386 at 12 (emphasis supplied).

[2] *See* Amended Petition at 1 ("NHOS does not interpret the Order as directing NHOS to file a complaint under RSA 365:1 and Puc 204.01.")

[3] Order No. 25,386 at 11-12.

work. NNETO also agrees that, regardless of the purported facts, NHOS has failed to establish that any third party action, whether by attachers or pole owners, has been the cause of NHOS' delay in deploying its facilities.

Even if some type of third party intervention was advisable, NNETO particularly objects to NHOS's intimation that pole owners should be conscripted as agents for resolution and enforcement of third party rights. In its Amended Petition, NHOS now requests that "the Commission . . . demand that pole owners employ their contractual right under the [Pole Attachment Agreement] to require third-party attachers to perform make-ready work in a timely fashion, and under terms that are fair and reasonable."[4] NNETO cannot conceive of any Commission action that could (i) vest a private entity like NNETO with the authority to enforce a code of conduct between unrelated third parties (especially if, as in most cases, one or more of those parties is a competitor) and (ii) indemnify, defend and hold NNETO harmless against potential claims by aggrieved third parties. Furthermore, NNETO has no resources to devote to such an effort in any event. What NHOS suggests is entirely unworkable, and the Commission should firmly reject this request.

Like CANNE and NECTA, NNETO is perplexed as to NHOS's ultimate agenda. One thing is clear, however, whatever that agenda may be, it is neither the Commission's duty nor attaching parties' duty to help NHOS develop and structure its case. The Commission has provided NHOS with considerable latitude. In response to NHOS's first ambiguous claim for relief, the Commission gave NHOS a second opportunity to present its claim (and basically provided NHOS with an outline of how to present its case), and gave it a full thirty days to do so. Nevertheless, NHOS squandered that opportunity and presented a document that, aside from a reference to one potential respondent, was as devoid of substance as the original filing. In the absence of a bona fide issue, it would be an unjustified waste of time and resources for the Commission to move forward with Docket DT 12-107 where there is no clear dispute to adjudicate. Accordingly, NNETO supports the Motions to Dismiss and Docket DT 12-107 should be closed with no further action.

In addition, the stakeholders meeting scheduled for August 29, 2012, in DT 12-246 should be cancelled, and that proceeding itself should be terminated with no further action. Neither pole owners nor CLECs filed complaints regarding a pole access process that generally has worked well for all parties for an extended period of time. The fact that a single CLEC *appears* to have an issue with a single existing attacher does not justify the entire industry engaging in extensive litigation (and incurring related costs of litigation) for what could easily be a docket lasting in excess of a year, possible two years. Instead, the Commission can mediate any dispute that NHOS might have with a specific attacher and such action could resolve any existing dispute that led to Docket 12-246.

The Commission, as well as pole owners, attachers, municipalities and other state agencies already have expended considerable time and effort on pole attachment issues resulting in pole

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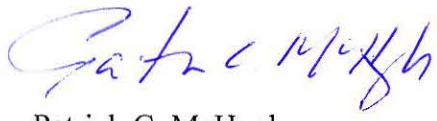
[4] Amended Petition at 5.

attachment rules. The Commission first opened an investigation into pole practices and pole attachments in 2005. Ultimately, that docket resulted in a rule making that lasted nearly two years and was finally approved on December 3, 2009. Considering the amount of time and resources spent addressing pole attachment issues in a thorough and comprehensive manner, ultimately resulting in extensive pole attachment rules adopted in 2009, and the fact that the rules and process generally has worked well, it is not reasonable to start the process anew and require the additional investment of resources and may ultimately result in extensive litigation.

As CANNE and NECTA indicated in their motions, arrangements among attaching parties have been conducted with little or no Commission involvement for many years now. NHOS has presented no concrete evidence to support its demand for a Commission investigation or intervention of any type. Accordingly, NNETO supports CANNE's and NECTA's requests that the Commission dismiss the Amended Petition and close Docket Nos. DT 12-107 and DT 12-246.

Very truly yours,



Patrick C. McHugh

Cc: Service Lists (electronic submission only)