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The Northeast Utilities System

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VIA HAND DELIVERY AND ELECTRONIC MAIL

Debra A. Howland
Executive Director & Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429



Re: DT 12-246 Electric and Telephone Utilities – Review of
Utility Pole Access Issues

Dear Ms. Howland:

The purpose of this letter is to provide the Commission with the comments of Public Service Company of New Hampshire (PSNH) to Staff's report of the stakeholders meeting held in the above docket on August 29, 2012. While PSNH has not yet formally filed to intervene as an interested party in this docket, PSNH did attend and participate in the stakeholders meeting as an interested utility pole owner.

In its report dated October 9, 2012, Staff recommended that this proceeding be used to initiate a rulemaking to develop rules to "establish timing and coordination of third party make-ready work when a new competitor is licensed to attach to a utility pole, as well as dispute resolution options." Staff's report also recommended that a rulemaking "address the general practice of requiring new attachments to be located 40 inches below the neutral and whether a more efficient method can be established." PSNH respectfully disagrees with Staff's recommendations for the following two reasons:


1. PSNH believes it may be unnecessary, or at best premature, for the Commission to move forward with this docket until (a) pending motions to dismiss or stay this proceeding are ruled upon by the Commission, and (b) the proceeding in docket DT 12-107 New Hampshire Optical Systems, LLC (NHOS) has been fully adjudicated. This docket grows entirely out of the allegations asserted by NHOS in its petition filed in DT 12-107, in which NHOS sought an "investigation" into make-ready charges and related issues it was alleged to be experiencing with other third party licensees in attempting to attach its fiber to utility poles. This docket would not have been opened but for the complaints made by NHOS in that docket. It is prudent and efficient for the Commission to defer further proceedings in this matter until all of the factual issues in DT 12-107 have been fully developed, investigated and addressed. In doing so, the Commission and all interested stakeholders will be better able to determine what, if any, issues truly need to be or should be addressed in a rulemaking proceeding. Moreover, while the Commission has

denied the motions to dismiss in DT 12-107 filed by the New England Cable & Telecommunications Association (NECTA) and the CLEC Association of Northern New England (CANNE), it has yet to rule upon NECTA's motion to close this docket, or stay it pending resolution of the issues in DT 12-107.¹ NECTA has since renewed its request to stay this docket, with the recent filing of a motion to stay on October 24, 2012. At a minimum, the Commission should not consider Staff's recommendations for further proceedings in this docket unless and until it has addressed NECTA's pending motions. As the Commission is presently moving forward with a factual investigation in DT 12-107, PSNH fully supports NECTA's motions to close or stay this docket until DT 12-107 is resolved.

2. A rulemaking to address the "general practice" of requiring attachments to be made 40 inches below the neutral is not warranted. This "practice" is in fact a requirement of the National Electrical Safety Code (NESC). Rule 238 of the NESC establishes as a general rule that the minimum safe vertical clearance between supply conductors and communication cables or equipment on the same pole structure is 40 inches. See Rule 238 and Table 238-1, NESC (C2-2007).² The Commission's existing pole attachment rules already require that all attachments shall be installed in accordance with the National Electrical Safety Code, in addition to other applicable codes and standards. Puc 1303.07 (a). Accordingly, there is no reason to consider Staff's recommendation for a rulemaking to address this subject, as both utility pole owners and attaching parties must comply with the NESC in making attachments.

Thank you for the opportunity to comment on Staff's recommendations in this docket. PSNH respectfully urges the Commission not to adopt those recommendations, but to instead take the actions requested by PSNH for the reasons set forth above.

Very truly yours,



Christopher J. Allwarden
Senior Counsel

cc: R. Bersak
D. Bickford
A. Desbiens
D. Nourse
Service List

¹ NECTA filed its motion to dismiss and close this docket, or to stay it pending the resolution of DT 12-107, on August 15, 2012. At the stakeholders meeting held on August 29th, Staff announced at the outset that the meeting would go forward despite the pending motion for dismissal or a stay, which had not then been ruled upon by the Commission.

² This commonly known and accepted clearance specification creates a communication worker safety zone between facilities located in the supply space and facilities located in the communications space. NESC Rule 238E.