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October 26, 2012

Via Hand Delivery

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



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

Dear Ms. Howland:

I am writing on behalf of New Hampshire Optical Systems, Inc. (“NHOS”) in response to the Commission’s request for comment on proposals set forth in the October 9, 2012 letter from the Commission’s Director of Telecommunications, Kathryn Bailey. NHOS agrees with Ms. Bailey’s recommendation that the Commission use this Docket to develop rules governing third party make-ready work.

In particular, NHOS agrees that rulemaking is needed to address: (a) the timing and coordination of make-ready work by utility pole owners and existing attachers so that new licensees can obtain timely access to utility poles; (b) determining the fees that may be charged to new licensees for make-ready work, and ensuring that fees are just, reasonable and non-discriminatory; (c) the procedure for remedying existing code violations and non-compliant attachments identified during third party make-ready surveys; (d) the enforcement by pole owners of provisions in pole attachment agreements which govern the performance of third party make-ready work; and (e) the timely resolution of disputes over third party make-ready work.

NHOS believes that many of the issues identified above are addressed, in part, in the pole attachment agreements between pole owners and licensees. In addition, NHOS recommends that rules adopted in New Hampshire follow FCC guidelines, specifically FCC 11-50, relative to third party make-ready work. NHOS believes that the four-stage process outlined in FCC 11-50 (comprised of surveys, estimates, attacher acceptance, and the performance of make-ready), and the time frames applicable to each stage, should be the benchmark for rules adopted in New Hampshire.

Furthermore, NHOS recommends that under any rules proposed by the Commission, a licensee/third party attacher should be required, as a condition for obtaining pole access, to agree to perform make-ready work in a timely fashion, at rates that are just, reasonable, and non-discriminatory. NHOS also believes that pole attachment agreements should require licensees to submit to the jurisdiction of the Commission to resolve claims which arise when another licensee's access has been impeded. While these issues are already addressed, in part, in some pole attachment agreements currently in use, NHOS believes that including these issues in the Commission's rules will clarify the obligation of parties to such agreements.

Finally, NHOS disagrees with the suggestion raised by certain parties during these proceedings that the Commission lacks authority under existing statutes and rules to directly regulate third party attachers' conduct with regard to make-ready work. However, NHOS believes that adopting rules relative to third party make-ready will eliminate confusion on this issue, and further clarify the rights and obligations of pole owners and licensees with respect to third party make-ready work.

Sincerely,



Christopher H.M. Carter
CHMC/smc

Cc: Client

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