

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION**  
**DT 12-246**  
**ELECTRIC AND TELEPHONE UTILITIES**  
**Review of Utility Pole Access Issues**

**MOTION TO STAY**

NOW COMES New England Cable & Telecommunications Association, Inc. (“NECTA”), by and through its undersigned counsel, and respectfully moves that the New Hampshire Public Utilities Commission (“the Commission”) stay the above-captioned docket pending final resolution of Docket DT 12- 107. In support of this Motion, NECTA states as follows:

1. The instant docket was opened “for the purpose of considering issues relating to pole attachment access.” Order of Notice (Aug. 6, 2012) at 1 *quoting New Hampshire Optical Systems, LLC*, DT 12-107, Order No. 25, 386 (July 3, 2012) at 11. After convening a stakeholder meeting on August 29, 2012 to develop a scope of issues and process for this docket, Commission Staff filed a report summarizing the stakeholder meeting and recommending that the instant proceeding should be used to develop rules regarding third-party make-ready work on utility poles, a dispute resolution option and the issue of the proper pole space for new attachments. *Letter from Kathryn M. Bailey, Director, Telecommunication to Debra A. Howland, Executive Director* (Oct. 26, 2012).
2. The instant proceeding is the direct outgrowth of Docket DT 12-107, and encompasses the same issues. Docket DT 12-107 is a pending docket concerning New

Hampshire pole attachment issues that were raised in two petitions filed by New Hampshire Optical Systems, Inc. (“NHOS”). NHOS has alleged that it is unable to complete work on the so-called “Middle Mile Project” because certain competitive local exchange carriers (“CLECs”) have failed to complete make-ready work and that they and/or utility pole owners have engaged in other conduct that has impaired NHOS’s ability to gain access to certain utility poles for the purpose of installing its fiber optic cable. *See, e.g., New Hampshire Optical Systems, LLC – Petition for Investigation into Proposed Charges for Utility Pole Make Ready*, DT 12-107, Amendment to NHOS Petition for Investigation, ¶¶ 15 - 18.

3. The Commission’s investigation of NHOS’s claims in Docket DT 12-107 is ongoing. In that docket, the Commission has issued numerous discovery questions to NHOS and three pole owners, all of whom have responded by providing voluminous, detailed pole attachment data, photographs, agreements and other information. Additional, follow-up information may be filed in that docket. *See New Hampshire Optical Systems, LLC*, DT 12-107, Order No. 25, 407 (Sept. 5, 2012) at 10.

4. Given that detailed factual information concerning New Hampshire pole attachments is currently being compiled and developed in DT 12-107 on the very issues that are the subject of the instant docket, and given that the commonality of issues in both dockets means that the outcome of DT 12-107 will have a direct bearing on the issues in the instant docket, NECTA respectfully submits that any further action in the instant docket should be stayed pending the outcome of DT 12-107. The Commission’s determinations in DT 12-107, as well as the factual record upon which they are based, will better inform and guide the parties’ work in the instant docket. Moreover, the

outcome of DT 12-107 may help to narrow the issues for consideration here, or may obviate the need for rulemaking altogether. Logic therefore dictates that the proceedings in DT 12-107 should conclude before the instant docket proceeds further.

5. Inefficiency and inconsistency may likely result if both dockets proceed on parallel tracks or if this docket proceeds in advance of DT 12-107. For example, parties to the instant docket could devote substantial time and resources attempting to draft rules addressing pole attachment issues in one way, only to have the Commission adjudicate the same issues differently in DT 12-107. Given the number of stakeholders involved with pole attachment issues, they should not be required to devote substantial time and resources developing rules in this docket until such time as the Commission completes its investigation in DT 12-107 and determines, based on the evidentiary record developed in that docket, what, if any, pole attachment rules are necessary.

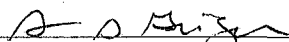
WHEREFORE, NECTA respectfully requests that the Commission:

- A. Stay the instant docket until such time as a final, non-appealable order is issued in Docket DT 12-107; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

NEW ENGLAND CABLE AND  
TELECOMMUNICATIONS ASSOCIATION, INC.

By its attorneys,  
Orr & Reno, P.A.

By: 

Susan S. Geiger  
One Eagle Square  
P.O. Box 3550  
Concord, NH 03302-3550  
(603) 223-9154  
sgeiger@orr-reno.com

William D. Durand (sg)  
William D. Durand, Executive V.P./Chief Counsel  
New England Cable and Telecommunications  
Association, Inc.  
10 Forbes Road, Suite 440W  
Braintree, MA 02184  
(781) 843-3418  
[wdurand@necta.info](mailto:wdurand@necta.info)

Dated: October 24, 2012

Certificate of Service

I hereby certify that on this 24<sup>th</sup> day of October, 2012, a copy of the within Motion was sent by electronic or U.S. mail to persons listed on the Service List.

  
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Susan S. Geiger

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