

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION
DOCKET NO. DT 07-011

DIRECT TESTIMONY
OF
RICHARD MALASKY, PUBLIC WORKS DIRECTOR AND FIRE CHIEF

ON BEHALF OF MUNICIPALITY OF NEWMARKET,
NEW HAMPSHIRE, INTERVENOR

JULY 20, 2007

My name is Richard Malasky. I am the Public Works Director and Fire Chief for the Town of Newmarket.

Educational and professional background:

1989 graduate of Newmarket Jr./Sr. High School

State Fire Academy Certifications: 1990 to 1992 - Fire I, Fire II, ICS, HazMat, Forestry,

2001- EMT, 2006 – Inspector I

1999-Level III Solid Waste Facility Advanced Operator

I joined the Newmarket Fire Department in 1990. I came up through the ranks as a firefighter to Lt. followed by Captain and then Assistant Chief and currently the Chief. I have served as a Chief Officer since 1998.

I have been employed with the Newmarket Public Works Department since 1991. I have held a management position with the Public Works Department since 1997.

Describe Current Duties for the Town of Newmarket:

I perform complex supervisory, administrative and professional work in planning, organizing, directing, and supervising the Public Works Department, including roadways, sidewalks, street lighting, bridges, buildings and grounds, cemeteries, vehicles, parking lots, solid waste, water, sewer and other public works projects and programs. As Fire Chief, I am responsible for overseeing all fire fighting and prevention programs and all emergency medical services for the community, including inspections and enforcement of all state and local life safety codes and supervision of the Town’s primarily volunteer firefighters.

Purpose of Testimony:

My purpose is to provide information on concerns that the Town has regarding FairPoint’s proposed acquisition of Verizon’s assets in New Hampshire, including land lines, poles and optical fiber to the premises (“FiOS”). These concerns include management of the public rights of way, pole licensing issues, use of space for municipal purposes on poles jointly or solely to be owned by Fairpoint, improved communications between the Town and FairPoint, improved responsiveness by FairPoint on construction, repair, emergency response and pole setting, as well as continued deployment of fiber to the premises.

Overview of Pole Attachments/Existing Network:

Newmarket maintains a network attached to poles for safety and fire-alarm purposes. This network has been in place for many years. The network is expanded, maintained and upgraded when necessary. It currently includes an optical fiber network over lashed to the original alarm cable. The Town does not have any formal agreements for its attachments, and it has never paid any fees for the attachments. None of the Town’s networks are used to complete with any utility. All networks are used for governmental purposes to link government buildings, including the police department, town hall and fire stations.

Newmarket claims the right to such attachments without fees based on provisions on NH RSA Chapter 231, its licenses with the pole owners and its obligations for emergency management and management of the public rights of way. When the Town must replace, repair, or perform routine maintenance on the network, it works within the space reserved for the

municipality. The Town also works with other entities when appropriate to determine height requirements. For example, when the Town placed its fiber network, it worked with the railroads so the cables would be at the appropriate height at railroad crossings.

Right-of-way Management Issues:

The right-of-way is under municipal ownership, and Newmarket has the exclusive authority to control and manage the right-of-way. Newmarket has had problems in the past with Verizon performing necessary pole work within reasonable timeframes. Sometimes these time intervals are excessive. For examples, the Town completed a project on Route 108, and the poles within the project were not moved or transferred until two years after first requested. To comply with Town ordinances, the Town was forced to complete the project with the old poles in place. Some of these poles were located in the middle of sidewalks, making pedestrian traffic difficult and snow removal impossible in these areas.

Conclusions:

In considering the proposed transaction between Verizon and FairPoint, it is important for the Commission to require that FairPoint address and provide a concrete plan to remedy the problems the Town of Newmarket has encountered with Verizon and to affirmatively require as a condition of approval:

- Responsiveness on construction and relocation of poles for public works project and dedication of sufficient staff and resources to discharge FairPoint’s obligations in a safe and timely manner;

- Agreement on municipal use of space on poles for governmental purposes, including the right of municipalities to overlash optical fiber to their existing alarm facilities to upgrade their emergency management functions and for other governmental purposes.