

THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

Docket No. DT 07-011

DIRECT TESTIMONY OF

Robert T. Hybsch

Request for Conditions to the FairPoint/Verizon Transfer of Assets

August 1, 2007

1 **I. Introduction**

2 **Q. Please state your name, position and business address.**

3 A. My name is Robert T. Hybsch. My business address is PSNH Energy Park, 780 North
4 Commercial Street, Manchester, New Hampshire. I am Director of Customer Operations
5 for Public Service Company of New Hampshire (“PSNH”).

6 **Q. Have you previously testified before the Commission?**

7 A. No, I have not.

8 **Q. Please provide your educational background and experience,**

9 A. A listing of my educational background and experience is contained in Attachment
10 RTH-1.

11 **Q. What are your current responsibilities with PSNH?**

12 A. As Director of Customer Operations, I am directly responsible for the construction,
13 maintenance and operation of the distribution system, excluding substations. I am also
14 responsible for storm emergency preparedness and restoration, large customer managed
15 accounts program, division community relations, and certain plant records. I am PSNH’s
16 lead in the Investigation Into Utility Poles Docket DM 05-172 and serve as the witness
17 responsible for all of PSNH’s responses to data requests in that Docket.

18 **Q. What is the purpose of your testimony?**

19 A. The purpose of my testimony is to request that the Commission impose reasonable
20 conditions on the FairPoint/Verizon transfer of assets currently under consideration.
21 PSNH does not oppose the transfer of assets, but requests certain conditions be imposed
22 as a condition of the transfer of assets in order to ensure that FairPoint performs its
23 obligations under the Joint Ownership Agreement and Inter-Company Operating
24 Procedures (IOPs). Since November 2005, PSNH has participated as a mandatory party
25 in Docket DM 05-172, Investigation Into Utility Poles (the “Pole Docket”). During this

1 proceeding, multiple complaints have been raised by customers, municipalities, the
2 Department of Transportation, and other third parties attaching to our jointly owned poles
3 regarding Verizon's performance with regard to pole installations, removals and
4 maintenance. Hundreds of data requests have been submitted by Commission Staff, the
5 Office of Consumer Advocate, municipalities, and other utilities. The data requests have
6 been responded to and white papers have been drafted on four of the five major topics
7 under review by the Commission Staff. All issues have been fully discussed in technical
8 sessions and we were anticipating formal hearings in Docket DM 05-172 to resolve the
9 identified service issues. Because of the importance of the issues raised in DM 05-172, it
10 is critical that the performance issues be fully considered in the FairPoint/Verizon docket.
11 This is because the surviving company after a merger takes place will be responsible for
12 all of the duties and responsibilities associated with the jointly owned poles, including
13 those arising under the Joint Ownership Agreement with PSNH and the associated IOPs.
14 PSNH and Verizon are joint owners of approximately 375,000 utility poles in New
15 Hampshire. I will list the major issues which were documented in DM 05-172 with
16 PSNH's recommendations for conditions that need to be placed on the approval of the
17 FairPoint/Verizon asset transfer in this docket.

18 **II. Emergency Management**

19 **Q. Please describe a responsible standby procedure and your recommendation on how**
20 **to implement such a procedure.**

21 A. Companies operating with licensed fixed assets (i.e., utility poles, wires, etc.) located
22 within public rights-of-way must have personnel available to respond in a timely fashion
23 to make emergency repairs, 24 hours per day, 365 days per year. The only way to
24 guarantee that personnel will be available to respond in a timely fashion is to implement a
25 standby system in strategically located field offices throughout the state. Employees on

1 standby will ensure that a utility can respond in a timely fashion. As stated by Verizon in
2 DM 05-172, Data Response Staff 1-2, (refer to Attachment RTH-2) Verizon does not
3 have any provisions in the contract for employees to be on standby. Verizon also stated
4 in its data response to DM 05-172, Staff 2-13, “Verizon NH has no field crews or
5 emergency personnel on paid standby during nights or emergencies.” (Refer to
6 Attachment RTH-3.) PSNH recommends that a condition be placed on the
7 FairPoint/Verizon transfer of assets which requires FairPoint to implement a standby
8 system in multiple work locations throughout the state in order to address emergencies in
9 the telephone company’s maintenance area. We further recommend that a condition be
10 placed on FairPoint to require a response to the site of the emergency with qualified
11 repair crews (excluding major storm events) within one hour on average, which would be
12 consistent with the performance of other New Hampshire electric utilities (refer to utility
13 responses to DM 05-172, Staff 1-3 in Attachment RTH-4).

14 **Q. What is the utility practice for transferring facilities and removing broken poles
15 caused by vehicle accidents within the public rights-of-way?**

16 A. PSNH typically installs a new pole and transfers facilities during the initial emergency
17 response. On occasion, if appropriate, electric utilities will make the pole safe (i.e.,
18 temporary bracing) and schedule, as a high priority, a new pole set and transfer facilities
19 as soon as practical, typically within five business days. In Verizon’s data response to
20 DM 05-172, Staff 3-38 regarding the replacement of damaged poles made safe, Verizon
21 stated, “If a situation were made safe, engineering would be notified and a job issued and
22 scheduled, following our scheduling process.” (Refer to Attachment RTH-5.) PSNH
23 recommends that a condition be placed on the FairPoint/Verizon transfer of assets which
24 requires FairPoint to transfer facilities and remove the old pole immediately after the
25 electric facilities are transferred whenever a broken pole requires an immediate new pole
26 set. We also recommend, for those poles temporarily made safe, that FairPoint be

1 required to replace the pole in their maintenance area and transfer facilities in either
2 maintenance area within five business days, on average.

3 **III. Joint Ownership Responsibilities for Operation and Maintenance**

4 **Q. What has been your experience regarding the maintenance trimming of trees** 5 **around utility lines within PSNH's franchise area?**

6 A. PSNH manages a robust maintenance trimming program involving the trimming of
7 approximately 2,200 miles of line annually at a cost of approximately \$6 million
8 annually; reference PSNH response to DM 05-172, NSTF-03, Q-STAFF-027 (refer to
9 Attachment RTH-6), and NSTF-03, Q-STAFF-028 (refer to Attachment RTH-7). PSNH
10 has been required to manage and finance a maintenance tree trimming program in both
11 PSNH's and Verizon's maintenance areas due to Verizon's lack of a maintenance
12 trimming program. Intercompany Operating Procedure #7, 1., a., states "Maintenance
13 trimming shall be done on a joint basis when both companies have a need. When it is
14 agreed that both parties will benefit from such Joint Tree Trimming, the division of cost
15 will be 75% Electric Company and 25% Telephone." Intercompany Operating Procedure
16 #7 also states that trimming for heavy storm work and removal of weakened or toppled
17 trees and large limbs that threaten both parties' plant will be removed on a 50/50 cost
18 sharing basis (refer to Attachment RTH-8). Over the past several years, Verizon has
19 taken the position that it does not have a "need" for or will not "benefit" from a
20 maintenance tree trimming program or the removal of trees and limbs that threaten both
21 parties' plant. Following best utility practices, PSNH's trimming specifications result in
22 the trimming and/or removal of trees around Verizon's wires and poles as well as around
23 the facilities of all third party attachments. PSNH's cyclical trimming program prevents
24 trees from growing into Verizon's facilities, clearly providing a benefit to Verizon by
25 preventing damage to Verizon's facilities. Verizon effectively does not have a need to

1 trim because PSNH's best practice trimming specifications result in the trimming and/or
2 removal of trees around Verizon's facilities, providing benefits to Verizon.

3 **Q. Does PSNH make any recommendations for conditions pertaining to maintenance**
4 **trimming?**

5 **A.** Yes. PSNH recommends that a condition be placed on the FairPoint/Verizon transfer of
6 assets which requires FairPoint to contribute 25% to the total costs associated with the
7 maintenance trimming of its facilities as well as a 50% contribution for the removal of
8 trees and limbs that threaten both parties' plant. In addition, PSNH is requesting as a
9 condition of approval of the transactions proposed in this proceeding that PSNH be
10 reimbursed by Verizon for the sum of \$506,000 for a portion of the maintenance tree
11 trimming expense incurred by PSNH during 2005, an expense which PSNH agreed it
12 would not recover from its customers in the recently-approved rate case settlement
13 (DE 06-028). This expense represents a portion of the costs for PSNH maintenance
14 trimming which benefited Verizon's facilities, but which Verizon did not contribute to or
15 share in. The reimbursement should be directed to be made by Verizon from the
16 proceeds it receives in the asset transfer. Maintenance trimming costs should be the
17 responsibility of the electric customers and the telephone customers in order that they
18 receive safe and reliable service, not the shareholders of the electric utility.

19 **Q. Are utility poles currently inspected and maintained in accordance with the Joint**
20 **Ownership Agreement as defined in Inter Company Operating Procedure #6:**
21 **Inspection and Treatment of Standing Poles? (Reference IOP #6, dated 10/1/1994)**

22 **A.** Yes. PSNH recently implemented a ground line inspection program whereby we
23 inspected approximately 10,000 jointly owned poles within our maintenance area in 2006
24 and plan to inspect approximately 25,000 jointly owned poles within our maintenance
25 area in 2007. These inspections will be done in accordance with IOP #6 (refer to
26 Attachment RTH-9). As stated in Verizon's data response to DM 05-172, Staff 1-12

1 (refer to Attachment RTH-10), Verizon only inspects poles that Verizon’s technicians
2 climb. Verizon stated that “As a result of routine and on-going inspections performed in
3 the normal course of business, a set pole inspection schedule is not required.” PSNH
4 recommends that a condition be placed on the FairPoint/Verizon transfer of assets which
5 requires FairPoint to implement a ground line inspection and treatment program as
6 specified in Inter Company Operating Procedure #6 and in accordance with the National
7 Electrical Safety Code for all jointly owned poles within its maintenance area. We
8 further recommend that a condition be imposed on the approval of the transactions
9 requiring FairPoint to replace, in a timely fashion, all poles found to be hazardous or
10 condemned as prescribed in the National Electrical Safety Code.

11 **Q. What has been your experience with the timely removal of poles within the public**
12 **rights-of-way within PSNH’s franchise area as it relates to the dual pole problem?**

13 A. PSNH, in the course of our normal business process, typically has between 100 and 300
14 poles in the process of having transfer activity resulting in a temporary dual pole
15 situation. In Verizon’s data response to DM 05-172, Staff 3-23 (refer to Attachment
16 RTH-11), Verizon reported to have 5,479 poles that have pending transfer activity of
17 which 2,418 were reported to have been pending for over 2 years. The dual poles have
18 also created operational problems for PSNH in that several municipalities have
19 complained to PSNH about the dual pole problems in PSNH’s maintenance area that
20 have been created by Verizon’s delays in facility transfers and pole removal. Several
21 municipalities have delayed issuing new pole licenses in an attempt to have the dual pole
22 problems addressed. PSNH recommends that a condition be placed on the
23 FairPoint/Verizon transfer of assets which requires FairPoint to transfer facilities and
24 remove the dual poles on the existing backlog of more than 5,000 poles within the next
25 36 months, and require FairPoint to maintain a backlog of dual poles of less than 500
26 poles going forward.

1 **Q. What has been your experience in the timely placement of new service poles for**
2 **customers within PSNH's maintenance area and Verizon's maintenance area?**

3 A. The current joint ownership model worked very well prior to the deregulation of the
4 telephone industry. Basically all customers seeking a new electric service were also
5 seeking a new telephone service. Therefore, there was rarely a question as to who sets a
6 new service pole in the Verizon maintenance area. Following deregulation of the
7 telephone industry, customers began to have a choice of telephone service providers, and
8 as a result, Verizon, as a matter of policy, now does not commit to joint pole ownership
9 of a new service pole unless the new customer commits to take service from Verizon. On
10 the surface this should not be a problem; however, customers constructing a new
11 residence or business property typically do not decide on a telephone provider until the
12 latter stages of the construction process. Initially, customers require temporary electric
13 service long before they consider telephone service. The joint ownership agreement
14 allows Verizon 30 days to respond to a request from PSNH for joint ownership of a pole.
15 Only after the 30 days have expired does PSNH have the right to install the pole in
16 Verizon's maintenance area as a solely owned pole. This results in delays to a
17 customer's construction process that are avoidable. PSNH recommends that a condition
18 be placed on the FairPoint/Verizon transfer of assets which requires FairPoint to respond
19 to requests from PSNH for joint pole ownership within 15 days, thus eliminating 15 days
20 of unnecessary delays.

21 **Q. Has PSNH experienced delays for the installation of jointly owned poles in Verizon's**
22 **maintenance area?**

23 A. Yes, PSNH has had numerous instances where Verizon pole sets have been delayed
24 beyond requested installation dates. As part of the proceedings of DM 05-172,
25 NSTF-03, Q-STAFF-009, PSNH provided extensive documentation dating back to 2004
26 of 96 specific projects where PSNH experienced delays in providing service to customers

1 due to delays in having poles set by Verizon. The duration of the delays ranged from 8
2 days to 469 days, and on several occasions PSNH set the pole because we could no
3 longer wait for Verizon to do so (refer to Attachment RTH-12). PSNH recommends that
4 a condition be placed on the FairPoint/Verizon transfer of assets which requires FairPoint
5 to install jointly owned poles within its maintenance area by the specific customer need
6 date, so as not to interfere with the ability of PSNH to provide service to its customers.

7 **IV. Conclusion**

8 **Q. What is it that PSNH is seeking by making these recommendations of conditions to**
9 **approval of the asset transfer transaction?**

10 A. Essentially, PSNH is simply asking that FairPoint, as the proposed successor to Verizon
11 under the Joint Ownership Agreement and associated IOPs, be held to the reasonable
12 performance of the obligations and expectations of that Agreement. Given Verizon's
13 lack of commitment to performance of the Agreement and IOPs as detailed in my
14 testimony above, PSNH considers it reasonable that the proposed new owner of the
15 jointly owned plant be required by the Commission to demonstrate, and to carry out, an
16 enforceable commitment to remedying the performance failures of its predecessor.

17 **Q. Can the Commission require performance by FairPoint under the Joint Ownership**
18 **Agreement and IOPs, even if that Agreement and IOPs may not fall directly under**
19 **the Commission's jurisdiction?**

20 A. Yes, PSNH believes it can. Regardless of whether or not the Commission has
21 jurisdiction over the Joint Ownership Agreement and the IOPs, I am advised by PSNH's
22 legal counsel that the Commission clearly has broad general supervisory jurisdiction over
23 all public utilities, the plant owned, operated and controlled by them, and the safety and
24 adequacy of the services and facilities they provide. PSNH is requesting that as a
25 condition of the Commission's approval of the asset transfer, FairPoint be required to

1 accept Commission jurisdiction of the issues discussed above through the imposition of
2 specific conditions to that approval which will be subject to the Commission's
3 enforcement authority over its own orders. In view of Verizon's poor performance in
4 these areas, the added expense PSNH has incurred as a result of that poor performance,
5 and the frustration customers of both utilities have experienced, PSNH maintains that
6 Commission oversight is warranted. FairPoint has indicated that it plans to retain the
7 one-half ownership in jointly owned poles. As long as FairPoint owns a one-half interest
8 in the utility poles, the Commission has an interest in the supervision of utility plant and
9 whether safe and adequate service regarding utility poles is being provided to all
10 customers. While PSNH has no reason to believe that FairPoint will not carry out its
11 joint owner responsibilities and perform its obligations under the Joint Ownership
12 Agreement and IOPs, PSNH's experience with Verizon tells us Commission oversight is
13 needed to avoid a repetition of the problems. If it turns out that FairPoint abides by the
14 conditions imposed by the Commission, then little or no future action by the Commission
15 will be necessary.

16 **Q. Are there any alternatives to the imposition of specific conditions on the transfer of**
17 **assets from Verizon to FairPoint which PSNH has considered or will consider?**

18 A. Yes, in collaboration with the State's other electric utilities, PSNH and FairPoint are
19 attempting to define a jointly agreed set of performance conditions and expectations to
20 govern the parties going forward in carrying out their respective Joint Ownership or Joint
21 Use Agreements and associated IOPs. Those efforts are ongoing and, if successful, could
22 result in a presentation to the Commission, for approval as a condition to the asset
23 transfer, of a consensual agreement between PSNH and FairPoint which would serve in
24 lieu of imposition of the specific conditions regarding FairPoint recommended above in
25 my testimony. Accordingly, I do reserve the right to supplement my pre-filed testimony

1 on behalf of PSNH in this Docket relative to such a consensual agreement should one be
2 reached.

3 **Q. Does this conclude your testimony?**

4 **A.** Yes, it does.