

ATTORNEYS
DTCLAW
A T L A W

DONAHUE, TUCKER & CIANDELLA, PLLC

MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT A. BATTLES
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
HADEN P. GERRISH
CHRISTOPHER T. HILSON
JESSICA L. SINGER

OF COUNSEL

ROBERT B. DONOVAN
KATHERINE B. MILLER

WATER STREET
PROFESSIONAL BUILDING
225 WATER STREET
P.O. Box 630
EXETER, NEW HAMPSHIRE
03833-0630

TELEPHONE
603-778-0686

TOLL FREE
800-566-0506

FAX
603-772-4454

WWW.DTCLAWYERS.COM

GENERALMAIL@DTCLAWYERS.COM

Please Respond to the Exeter Office

July 20, 2007



VIA U.S. MAIL AND E-MAIL

Debra Howland, Executive Director
New Hampshire Public Utilities Commission
21 South Fruit St., Suite 10
Concord, NH 03301-2429

Re: DM 07-011 / In the Matter of Verizon New England and Fair Point Communications

Dear Ms. Howland:

Enclosed please find an original and seven (7) copies of the following Testimony on behalf of the intervening municipalities: Julia Griffin, the Hanover Town Manager; Richard Malasky, the Newmarket Director of Public Works and Fire Chief; and Jeff Brown, the Seabrook Fire Chief, for filing with the Public Utilities Commission in the above-captioned matter.

We have also enclosed an additional copy of this letter and the Testimonies. Please date stamp this document to evidence your receipt and return the date stamped copy to us in the enclosed return envelope.

A copy of the foregoing has been forwarded this date to the persons listed on the electronic service list attached.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

K B Miller
Katherine B. Miller
kmiller@dtclawyers.com

RDC/dlc
Enclosures

cc: Julia Griffin, Hanover Town Manager
Alphonse Dixon, Newmarket Town Administrator
Scott Dunn, Seabrook Town Manager
Service List

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PORTSMOUTH OFFICE:

KEARSARGE HOUSE, 104 CONGRESS STREET, SUITE 304, PORTSMOUTH, NEW HAMPSHIRE 03801
TELEPHONE 603-766-1686 FAX 603-766-1687

CHRISTOPHER J ALLWARDEN
PUBLIC SVC OF NEW HAMPSHIRE
780 NORTH COMMERCIAL ST
PO BOX 330
MANCHESTER NH 03105

NANCY BROCKWAY
NBROCKWAY & ASSOCIATES
10 ALLEN ST
BOSTON MA 02131

MARK C DEL BIANCO
3929 WASHINGTON ST
KENSINGTON MD 20895

JOHN ANTONUK
LIBERTY CONSULTING GROUP
65 MAIN ST
PO BOX 237
QUENTIN PA 17083-0237

STEVEN V CAMERINO
MCLANE GRAF RAULERSON & MIDDLETON
11 SOUTH MAIN ST STE 500
CONCORD NH 03301

VICTOR D DEL VECCHIO
VERIZON NEW ENGLAND
185 FRANKLIN ST 13TH FL
BOSTON MA 02110-1585

KELLY ATWOOD
DEVINE MILLIMET & BRANCH PA
49 N MAIN ST
CONCORD NH 03302

MICHAEL CANNATA
LIBERTY CONSULTING GROUP
65A RIDGE RD
DEERFIELD NH 03037

GERALD M EATON
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
780 N COMMERCIAL ST
PO BOX 330
MANCHESTER NH 03105-0330

SUSAN BALDWIN
17 ARLINGTON ST
NEWBURYPORT MA 01950

GENT CAV
OTEL TELEKOM INC
ONE SUNDIAL AVE STE 210
MANCHESTER NH 03103

GARY EPLER
UNITIL ENERGY SYSTEMS INC
6 LIBERTY LANE WEST
HAMPTON NH 03842-1720

KATHERINE E BARKER MARSHALL
KELLEY DRYE & WARREN LLP
3050 K ST NW STE 400
WASHINGTON DC 20007

ROBERT CIANDELLA
DONAHUE TUCKER & CIANDELLA
225 WATER ST
EXETER NH 03833-0630

DAN FELTES
NEW HAMPSHIRE LEGAL ASSISTANCE
154 HIGH ST
PORTSMOUTH NH 03802

ALEXANDRA E BLACKMORE
GRANITE STATE ELECTRIC COMPANY D/B/
25 RESEARCH DRIVE
WESTBOROUGH MA 05182

MICHAEL CLANCY
COVAD COMMUNICATIONS GROUP INC
149 MARGARET BLVD
MERRICK NY 11566-3612

PAULA W FOLEY
ONE COMMUNICATIONS
24 ALBION RD STE 230
LINCOLN RI 02865

SARAH M BOSLEY
107 OXPENS RD
CARY NC 27513

FREDERICK J COOLBROTH
DEVINE MILLIMET & BRANCH
49 N MAIN ST
PO BOX 3610
CONCORD NH 03302

KARYN P FORBES
SHAHEEN & GORDON PA
107 STORRS ST
PO BOX 2703
CONCORD NH 03302-2703

DAVID BREVITZ
3623 SW WOODVALLEY TER
TOPEKA KS 66661

SEAN DANDLEY
DSCI CORPORATION
1050 WALTHAM ST
LEXINGTON MA 02421

SHELIA GORMAN
VERIZON
125 HIGH STREET
BOSTON MA 02110

Docket #: 07-011-1 Printed: June 27, 2007

FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a)(1)

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DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

ANTHONY HANSEL
COVAD COMMUNICATIONS CO
600 14TH ST NW
STE 750
WASHINGTON DC 20005

KIMBALL L KENWAY
CURTIS THAXTER STEVENS BRODER & MIC
ONE CANAL PLAZA 10TH FLR
PO BOX 7320
PORTLAND ME 04112-7320

PATRICK MCHUGH
DEVINE MILLIMET & BRANCH PA
111 AMHERST ST
PO BOX 719
MANCHESTER NH 03101

MEREDITH A HATFIELD
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301

CHARLES KING
LIBERTY CONSULTING GROUP
65 MAIN ST
PO BOX 237
QUENTIN PA 17083-0237

STEPHEN MERRILL
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301

RORIE HOLLENBERG
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301-2429

SARAH KNOWLTON
MCLANE GRAF RAULERSON & MIDDLETON
100 MARKET ST STE 301
PORTSMOUTH NH 03801

JUDITH MESSENGER
PAETEC COMMUNICATIONS INC
ONE PAETEC PLAZA
600 WILLOWBROOK OFFICE PARK
FAIRPORT NY 14450

ROBERT T HYBSCH
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
780 NORTH COMMERCIAL ST
PO BOX 330
MANCHESTER NH 03105-0330

WALTER E LEACH JR
FAIRPOINT COMMUNICATIONS INC
521 E MOREHEAD ST STE 250
CHARLOTTE NC 28202

CAROL MILLER
NEW HAMPSHIRE INTERNET SERVICE PROVIDER
PO BOX 8008
NASHUA NH 03060

NANCY JACOBSON
ONE COMMUNICATIONS
24 ALBION RD STE 230
LINCOLN RI 02865

ALAN LINDER
NH LEGAL ASSISTANCE
48 SOUTH MAIN ST
CONCORD NH 03301

KATHERINE B MILLER
DONAHUE TUCKER & CIANDELLA PLLC
225 WATER STREET
PO BOX 630
EXETER NH 03833-0630

JEREMY L KATZ
SEGTEL INC
PO BOX 610
LEBANON NH 03766

SHIRLEY J LINN
FAIRPOINT COMMUNICATIONS INC
521 E MOREHEAD ST STE 250
CHARLOTTE NC 28202

ROBERT J MUNNELLY JR
MURTHA CULLINA LLP
99 HIGH ST 20TH FLR
BOSTON MA 02110

HEATHER KAUFMAN
NEW HAMPSHIRE ELECTRIC COOPERATIVE
579 TENNEY MT HIGHWAY
PLYMOUTH NH 03264

ALAN D MANDL
SMITH & DUGGAN LLP
LINCOLN NORTH
55 OLD BEDFORD RD
LINCOLN MA 01773-1125

JOHN NESTOR III
VERIZON NEW HAMPSHIRE
900 ELM ST STE 1927
MANCHESTER NH 03101-2008

GREGORY M KENNAN
ONE COMMUNICATIONS
24 ALBION RD STE 230
LINCOLN RI 02865

MARLA B MATTHEWS
GALLAGHER CALLAHAN & GARTRELL PC
214 N MAIN ST
CONCORD NH 03301

ROGELIO E PENA
PENA & ASSOCIATES LLC
1919 14TH ST STE 610
BOULDER CO 80302

DONALD PFUNDSTEIN
GALLAGHER CALLAHAN & GARTRELL
214 N MAIN ST
P O BOX 1415
CONCORD NH 03302

ARPIAR G SAUNDERS JR
SHAHEEN & GORDON PA
PO BOX 2703
CONCORD NH 03302-2703

RANDY VICKROY
LIBERTY CONSULTING GROUP
65 MAIN ST
PO BOX 237
QUENTIN PA 17083-0237

PAUL J PHILLIPS
PRIMMER PIPER EGGLESTON & CRAMER P
421 SUMMER ST
PO BOX 159
ST JOHNSBURY VT 05819-0159

SCOTT SAWYER
38 THIRD ST
BARRINGTON RI 02806

DARREN R WINSLOW
UNION COMMUNICATIONS
13 CENTRAL ST
PO BOX 577
FARMINGTON NH 03901

CHRISTOPHER J POLLART
RUBIN AND RUDMAN LLP
50 ROWES WHARF
BOSTON MA 02110

GREGG STRUMBERGER
LEVEL 3 COMMUNICATIONS LLC
1025 ELDORADO BLVD
BROOMFIELD CO 80021

SUZANNE WOODLAND
CITY OF PORTSMOUTH
1 JUNKINS AVENUE
PORTSMOUTH NH 03801

KAREN M POTKUL
XO COMMUNICATIONS SERVICES INC
1701 TRAPELO RD STE 397
WALTHAM MA 02451

BRIAN SUSNOCK
THE DESTEK NETWORKING GROUP INC
ONE INDIAN HEAD PLAZA
NASHUA NH 03060

R EDWARD PRICE
CHOICE ONE COMMUNICATIONS INC
100 CHESTNUT ST 14TH FLR
ROCHESTER NY 14604

BEN THAYER
BAYRING COMMUNICATIONS
359 CORPORATE DR
PORTSMOUTH NH 03801-2888

AUDREY J PRIOR
FAIRPOINT COMMUNICATIONS INC
155 GANNETT DR
SOUTH PORTLAND ME 04106

KELLY TOROSIAN
IBEW NH
46 THIRD ST
MANCHESTER NH 03102-4596

SUSAN ROCKEFELLER
CURTIS THAXTER STEVENS BRODER & MIC
ONE CANAL PLAZA
PORTLAND ME 04112-7320

ROJEAN TULK
FAIRPOINT COMMUNICATIONS INC
155 GANNETT DR
SOUTH PORTLAND ME 04106-6942

SCOTT J RUBIN
3 LOST CREEK DR
SELINGSGROVE PA 17870

ROBIN E TUTTLE
FAIRPOINT COMMUNICATIONS INC
521 E MOREHEAD ST STE 250
CHARLOTTE NC 28202

PURSUANT TO N.H. ADMIN RULE 204.04 (C), FILE DISCOVERY

DIRECTLY WITH THE FOLLOWING STAFF

RATHER THAN WITH THE EXECUTIVE DIRECTOR

LIBRARIAN
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

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KATE BAILEY
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

LYNN FABRIZIO
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

DAVID GOYETTE
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

WAYNE HACKETT
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

JODY O'MARRA
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

F ANNE ROSS
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

AMANDA NOONAN
CONSUMER AFFAIRS DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

Docket #: 07-011-1

Printed: 6/27/2007

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.

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

DIRECT TESTIMONY
OF
JULIA GRIFFIN, TOWN MANAGER

ON BEHALF OF MUNICIPALITY OF HANOVER, NEW HAMPSHIRE, INTERVENOR

JULY 20, 2007

My name is Julia Griffin. I am the Town Manager for the Town of Hanover.

Educational and Professional Background:

B.A. Government, Wesleyan University

M.A. International Relations, Yale University

MPPM Management, Yale School of Management

1984-85 Budget Analyst, Office of Management & Budget, City of New York

1985-1990 Senior Management Analyst, City Manager's Office, Santa Monica, CA

1990-1992 Assistant City Manager, Concord, NH

1992-1996 City Manager, Concord, NH

1996-Present Town Manager, Hanover, NH

Describe Current Duties for the Town:

As Town Manager for the Town of Hanover, I am the Chief Executive Officer. I supervise the day-to-day operations of the nine functional areas, including Administrative Services, Assessing, Management Information Systems, Planning & Zoning, Libraries, Public Works, Police, Fire, and Recreation and Parks. I report to a five member Board of Selectmen and also coordinate the work of several operating Boards and Commissions.

Purpose of Testimony:

My testimony serves to discuss 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"), and to offer additional information to support these concerns. These concerns include management of the public rights of way; pole licensing;

reserved municipal space 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; and deployment of fiber to the premises.

Management Issues in Right-of-way:

The Town has the exclusive right to manage the right-of-way by law. We are concerned that current problems working with utilities will worsen after FairPoint acquires the poles, lines, and equipment. Verizon is responsible for pole setting in Hanover. In the past, there has been a long-standing problem with excessive time intervals needed by utility companies, especially Verizon, to complete pole work. When communicating with Verizon, often Town officials are dealing with someone who can't make decisions or commitments for the company. When Verizon employees have attended our meetings, their response is that the Town should just work around the poles. This has become a standard practice for the Town of Hanover whether or not Verizon advises the Town to do so because of the unreliability of Verizon to complete pole work. Hanover has had to relocate sewers, drains, water mains, sidewalks, and intersections around poles that Verizon could or would not move. Sometimes, the Town has waited for years for poles to be removed. Even when we do receive a commitment from Verizon to do pole work, we never receive a schedule or time frame.

For example, there were problems with Verizon at the new water treatment facility project. Verizon intended to install larger poles without notice of the new size or the location, without inquiry as to existing conditions on site, and failed to obtain pole licenses for the new poles prior to installation. The new project resulted in a reorganization of the site, including

Town relocation of drain lines, sewer mains, and water mains. If the Town's construction crew has not been present when Verizon showed up to do their work, their intended new pole locations would have caused substantial damage as those locations conflicted with newly installed underground infrastructure. Verizon now has two sets of poles in this area as many of the older poles remain with telephone and cable wires still intact and the new poles continue to be unlicensed. Hanover has received no indication that Verizon plans to transfer the wires and remove the old poles.

In another example, the Town advised Verizon that their poles would need to be relocated approximately three years before scheduled work commenced to construct a roundabout at the intersection of Reservoir and Lyme Roads. Verizon failed to respond. Due to their lack of response, Hanover was forced to modify the intersection plan to accommodate a pole residing in the middle of the roundabout and an existing utility structure adjacent to the roadway.

Unlicensed Poles:

Historically, Verizon has set many poles without obtaining licenses from the Town pursuant to RSA 231:161, and many poles in Hanover are unlicensed. This complicates plowing the roads after snow fall, because unlicensed poles are often closer to the road than they should be. When the poles are damaged by snowplows Verizon attempts to blame the Town and collect repayment, but we routinely decline those requests.

Pole placement also impacts road and sidewalk construction. In one example, Hanover's Howe Library was undergoing expansion and renovations. It took 18 months for Verizon to move the necessary poles which physically blocked a sidewalk. This resulted in the need to

install a temporary sidewalk and corresponding warning signage. The Town received hundreds of complaints from pedestrians, but we were powerless to do anything about it. Verizon was unresponsive to the Town's needs.

Unlicensed poles also tend to be too close to drainage courses. This has resulted in overwhelmed drainage systems and damages to the structural integrity of the poles. Costly repairs are required from Verizon, and service interruptions occur for customers. The Town has also incurred expenses to repair water, sewer, and drain lines

Unlicensed poles can also be too close to existing poles, and all poles set immediately adjacent to existing poles are unlicensed. The right-of-way frequently becomes overly congested with the placement of so many duplicate poles, causing unsightly pole conglomerations that can sometimes obscure the driver's view at critical intersections. Hanover is often unaware when Verizon places new poles, and it has been impossible to determine what poles are unlicensed because Verizon has failed to provide the Town with its pole inventory. Hanover was forced in the summer of 2006 to hire a seasonal employee to complete a pole inventory for the Town. We counted 2,800 poles within our jurisdiction and are currently in the process of determining which poles are unlicensed.

Existing Network:

Hanover possesses records of pole and conduit licenses dating back to 1910. Some of these licenses reserved municipal space. Starting in 1941, all underground conduit licenses and many pole licenses included a requirement that space be reserved for municipal fire, police, telephone, and telegraph use. The conduit licenses also permit the Town to install fiber in the telephone conduit without charge.

Hanover has an extensive municipal fire-alarm cable network and continues to install such cable when new facilities require connection. The fire-alarm network is placed 40 inches below power lines and is at least 14 feet from the ground. Any repairs or maintenance is completed according to the International Municipal Signal Association. Transfers occur in a timely fashion by request of National Grid. Hanover has not been required to seek approval for the fire-alarm network, and it has not paid any fees to do so.

Hanover also maintains a municipal fiber communication network. Hanover was not required to obtain utility approval for this network and its expansions. Hanover has been permitted to attach without agreement or fee for many years. Neither has Hanover been asked to pay make-ready or survey costs to attach to poles or in the conduit.

The Town of Hanover provides usage of the right-of-way to utility companies without payment. Therefore, it seems unfair that Verizon could then charge the Town for attaching to the poles placed in public spaces

Fiber to the Premises:

The Town of Hanover is home to a great many high-tech, research institutions and others that rely on up-to-the-minute telecommunications. The Town is concerned that FairPoint has not provided sufficient commitments to deploy and maintain expanded optical fiber facilities necessary for the fastest telecommunications.

Conclusions:

Hanover recommends that the Commission require as condition of approval of the proposed transaction that FairPoint:

- (1) must be properly staffed and sufficiently funded in areas of pole maintenance and related functions (RSA 231:177 requires a utility to move a pole upon 10 days written notice);
- (2) clearly identify staff, provide contact information to allow municipalities access to the proper individuals for pole work scheduling, and attend a pre-construction season meeting to review all work planned in each community;
- (3) identify the location of all poles to permit proper managements of the right-of-way, including up-to-date maps that indicate the location of each pole and buried utility to be provided to municipalities that are updated annually;
- (4) effectively enforce pole-licensing requirements and reserve space for governmental purposes on all poles; and
- (5) expand the fiber to the premises program initiated by Verizon to bring the state of New Hampshire up to state-of-the-art standards in telecommunications.

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DOCKET NO. DT 07-011

DIRECT TESTIMONY
OF
JEFFREY BROWN, FIRE CHIEF

ON BEHALF OF MUNICIPALITY OF SEABROOK, NEW HAMPSHIRE, INTERVENOR

JULY 20, 2007

My name is Jeffrey Brown. I am the Fire Chief for the Town of Seabrook.

Educational and Professional Experience:

I have an Associates Degree in Fire Science, a Bachelors Degree in Fire/Emergency Management and a Juris Doctorate. I am a certified Firefighter and Fire Instructor in the State of New Hampshire and an Executive Fire Officer from the National Fire Academy. I have been Chief of the Seabrook Fire Department for 5 years, Deputy Chief for 8, a full time Firefighter for 8 years, a Call Firefighter for 2 years and a volunteer for 5 years. I served as Deputy Emergency Management Director for 6 years.

Describe Current Duties of Position with Town:

I am the Administrator for the Seabrook Fire Department. I am also responsible for the operations of the agency, emergency response, fire prevention and planning. I am responsible for the overall maintenance of the municipal fire alarm system and work closely with the Emergency Management Director on planning and response issues.

Purpose of Testimony:

The purpose of my testimony is to provide information on pole issues, such as pole attachments, the current Seabrook municipal network, and safety issues especially in regard to the nuclear power facility located in the Town of Seabrook, as they pertain to the proposed transaction between Verizon and FairPoint.

Existing Network:

Because of the importance of up-to-date emergency management in the Town due to the location of the nuclear station, Seabrook maintains a fiber-optic network, municipal fire-alarm system, and sewer-monitoring system on poles. The Seabrook Fire Department has maintained the fire-alarm system since 1963. The Department also completes any work for additions to the network. Seabrook has never paid fees for attaching to poles. Seabrook has constructed its municipal fiber-optic network by overlashing the fiber onto existing cables within the reserved municipal space. Seabrook did not pay fees associated with the fiber or execute any agreements to do so as the upgrade was merely an extension of the Town's existing facilities for governmental purposes. All cable maintained is for governmental purposes only and does not compete with the private industry.

Unlicensed Poles:

Seabrook has been unable to conduct extensive studies of unlicensed poles. The Town, however, has recorded GIS location data for 2665 poles, yet only has 527 pole petitions for licenses. Some of these petitions describe multiple poles, but the Town estimates that approximately 25% of the poles in the Town are unlicensed. One large example of unlicensed poles is in new subdivisions. When new subdivisions are built, the poles are placed without the licensing required by the Board of Selectmen, and any approvals by the Planning Board are not forwarded to the Town Clerk for recording pursuant to RSA 231:160-a. Unlicensed poles have not posed a safety issue yet. They do, however, create problems for assessing the value of the public right-of-way, and for purposes of taxing the use by the pole owners, pursuant to New Hampshire law.

Safety Issues:

Seabrook's network provides essential communication for emergencies. Because the Town has a nuclear power plant within its jurisdiction, the Town must be especially alert and able to respond to situations quickly. Maintaining the network it currently has, the Town is able to serve its residents' need in this respect.

Conclusion:

The Town of Seabrook respectfully requests that the Commission require the following for approval of the proposed transaction between Verizon and FairPoint:

- Require FairPoint and Verizon to provide municipalities with accurate information about all poles licensed in each municipality;
- Require FairPoint to agree to permit municipalities to place and maintain networks for governmental purposes (including emergency management), on the poles, including overlying fiber to upgrade existing networks.