

STATE OF NEW HAMPSHIRE

Before the

PUBLIC UTILITIES COMMISSION

Docket No. DT 23-103

CONSOLIDATED COMMUNICATIONS HOLDINGS, INC. AND

CONDOR HOLDINGS LLC

JOINT PETITION TO APPROVE TRANSFER OF CONTROL

**Supplement to the Motion of the
New Hampshire Electric Cooperative to Compel Responses to Data Requests**

NOW COMES the New Hampshire Electric Cooperative, Inc. (“NHEC”), a party to this docket, to respectfully request permission to supplement its motion filed on April 17, 2024, and made pursuant to N.H. Code Admin. Rule Puc 203.09(i) for an order compelling Consolidated Communications Holdings, Inc. (“Consolidated”) to respond to all of the data requests interposed by NHEC and objected to by Consolidated on April 8, 2024. To supplement its motion, NHEC states as follows:

I. Consolidated’s Objections and Failure to Provide Any Response

In addition to several general objections and objections related to the purported vagueness or overbreadth of NHEC’s data requests, Consolidated made the following specific objection to each of NHEC’s data requests:

Consolidated objects to this Request on the grounds that it seeks information not reasonably calculated to lead to the discovery of admissible evidence. Consolidated objects to this Data Request because it does not seek information relevant to or admissible in this proceeding before the Public Utilities Commission but instead seeks information concerning an unrelated civil action pending in the Hillsborough County Superior Court captioned New Hampshire Electric Cooperative, Inc. v.

Consolidated Communications of Northern New England, LLC, Docket No. 216-2020-CV-00555.

Apparently relying on this objection, Consolidated provided no response at all to any of NHEC's data requests.

II. Inapplicability of State Court Proceeding

As discussed in NHEC's Motion to Compel, it appears to NHEC that Consolidated is using the unrelated state court proceeding as an excuse not to respond to NHEC's discovery requests and to avoid having information about such issues brought to the Commission's attention. New information brought to NHEC's attention supports this contention.

Late on Friday, April 19, 2024, Consolidated filed a Motion *In Limine* in the aforementioned state court proceeding, a copy of which is appended hereto for reference, without the extensive exhibits. In it, Consolidated states: "Consolidated voluntarily non-suited its pole parity Counterclaims without prejudice in order 'to streamline the case . . . so the current litigation can focus squarely on the vegetation management issue.'"¹ Consolidated explained that NHEC's state court Complaint has nothing to do with any operational issue besides vegetation management: "NHEC's Complaint includes seven counts. *Every count relates to vegetation management obligations. No count refers to, or seeks relief related to, pole parity or any other non-vegetation-related operational issue.*"² Consolidated then asks the court "to preclude NHEC from presenting

¹ New Hampshire Electric Cooperative, Inc. v. Consolidated Communications of Northern New England, LLC, Docket No. 216-2020-CV-00555, Defendant's Motion *In Limine* to Exclude Evidence and Argument About Pole Parity and Any Other Operational Issue Unrelated to Vegetation Management at p. 1 (filed April 19, 2024) (quoting New Hampshire Electric Cooperative, Inc. v. Consolidated Communications of Northern New England, LLC, Docket No. 216-2020-CV-00555, Order at p. 5 (Sep. 14, 2023)) (emphasis added) ("Consolidated Motion *In Limine*").

² Consolidated Motion *In Limine*, at p. 2 (emphasis added).

evidence, testimony, or argument about pole parity *or any other operational issue that is not related to vegetation management.*”³

Consolidated’s Motion *In Limine* confirms that Consolidated understood that the state court proceeding relates only to vegetation management, not the other operational issues raised by NHEC’s data requests, and yet Consolidated continues to contend the opposite in this Commission proceeding. Such a contradiction calls into question the credibility of Consolidated’s objection to NHEC’s data requests, reflecting the length to which Consolidated will go to avoid bringing this information to the Commission’s attention.

III. Conclusion

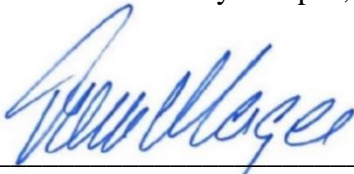
NHEC is hopeful that this transfer of control proceeding can be used to identify Consolidated’s shortcomings as an ILEC pole owner, so that conditions can be attached to this transfer that will ensure that Consolidated, under its new ownership, “is technically, managerially, and financially capable of maintaining the obligations of an incumbent local exchange carrier” to properly maintain and operate its distribution pole plant.⁴ NHEC and its members, not to mention Consolidated’s own customers, depend upon these capabilities.

Should Consolidated continue to avoid disclosure of its pole owner shortcomings in this proceeding, the PUC should consider opening its own proceeding to investigate them.

³ Consolidated Motion *In Limine*, at p. 7 (emphasis added).

⁴ RSA 374:30, II.

Respectfully submitted this 22nd day of April, 2024.

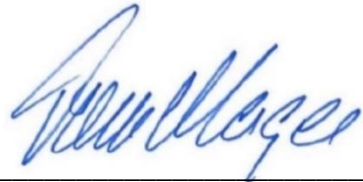
By:  _____

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Certificate of Service

I hereby certify that a copy of this pleading was provided via electronic mail to the individuals included on the Commission's service list for this docket.



Thomas B. Magee