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May 12, 2009

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

Re: Docket No. DT 08-146

Dear Debra:

The Ausbon Sargent Land Preservation Trust (ASLPT) has been contacted by Jane S. Phillips (Map Number: 57, Block Number: 9), an owner of land subject to a conservation easement. She has provided ASLPT with a copy of the letter from, the State of New Hampshire Public Utilities Commission Docket DT 08-146. We have in turn contacted several other landowners who have conservation easements on their property and received word that they have received the same notice. Since ASLPT possesses a property right in several parcels of land that will be affected, we feel we should comment concerning the proposed addition of fiber optic telecommunication cables to the existing electric poles.

From our perspective, there are two important issues raised by the letter that was forwarded to the landowners. First is whether PSNH sufficiently owns and controls the right under its private property easements to allow for segTEL's installation. The original easements gave Sunapee Electric Light and Power the right to "erect, repair, maintain, operate and patrol a line of poles or towers for the transmission of high or low voltage electric current". Since these easements were clearly granted exclusively for the transmission of electric current in order to provide electricity, the addition of the fiber optic telecommunication cable would constitute an expansion of the original easement, and a new agreement with each individual landowner would have to be reached – either by PSNH or by segTEL.

This issue is further complicated by the fact that ASLPT holds conservation easements on several of the properties that would be affected by any expansion of the utility easement. Some of these easements contain a provision that the landowner may "maintain, utilize, repair or replace in kind and location" utilities existing at the time of the conservation easement. Therefore, although the conservation easements acknowledge and recognize existing utility easements on the properties the conservation easements *do not allow* for the addition of new utilities on the property. With respect to any expansion of the current uses of the easement properties, the conservation easements only allow for commercial forestry and agriculture. Since the use of the property in the manner suggested by segTEL would constitute a commercial use of the property that was not forestry or agriculture, we cannot agree to allow new easements on any properties that are subject to our conservation easements.



In conclusion, we believe that the addition of fiber optic telecommunication cables to the existing towers is outside the scope of the original utility easement. segTEL would need to obtain new rights from affected property owners, but *cannot do so* on properties which are subject to our conservation easement.

Sincerely,



Andy Deegan
Stewardship Coordinator

Cc: Jane Phillips (Conservation Easement Property)
Stanley Farm Association, Inc. (Conservation Easement Property)
Susan Venable (Frank & Dorothy Gordon Conservation Easement property)
Richard & Jean Dulude (Lincoln Gordon Conservation Easement property)
Town of New London (Executory Interest)
Town of New London Conservation Commission (Executory Interest)
Otter Pond Protective Association (Conservation Easement Property)