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Ryan P. Taylor
Director - Regulatory NH
770 Elm Street, 1st Floor
Manchester, NH 03101

February 20, 2013

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: DT 12-107; New Hampshire Optical Systems, LLC ("NHOS") – Petition for an Investigation into Proposed Charges for Utility Pole Make Ready

Dear Ms. Howland:

On behalf of Northern New England Telephone Operations LLC d/b/a FairPoint Communications – NNE ("FairPoint"), I am submitting comments regarding the New Hampshire Public Utilities Commission Staff's ("Staff") recommendation filed on January 30, 2013 in the above-captioned docket.

In general, FairPoint is in agreement with the Staff's report and recommendations subject to a few exceptions. In particular, FairPoint agrees with Staff's conclusion that pole owners need not be involved in the process of relocating existing utility pole attachments to accommodate new attachers. As Staff described:

Many third-party attachments have been made to incumbent utility poles since 1996 and this issue has not previously been raised. Staff believes the pole owners' reasons for choosing not to perform this work are reasonable and agrees with pole owners' interpretations of the pole attachment agreement that the language in the agreements upon which NHOS relies, does not obligate pole owners to rearrange existing third-party attachments."¹

FairPoint believes that to require otherwise would lead to a multitude of disputes and would create an unworkable process.

As a second point, although FairPoint was not involved with the utility pole field review conducted on September 24, 2012, FairPoint is in agreement with Staff's conclusion that the identified issues and recommended remedies involve only the third party attachers, and not the pole owners. It makes perfect sense to FairPoint that the remedy for the identified issues should involve only those parties that are contributing to the reported discrepancies. FairPoint notes and appreciates the Staff's decision specifically to not include pole owners as part of this September 24th field review process. This decision in itself is consistent with FairPoint's position that the reported discrepancies purported by the petitioner and related third parties identified in Docket No. DT 12-107 should be isolated and managed between those parties.

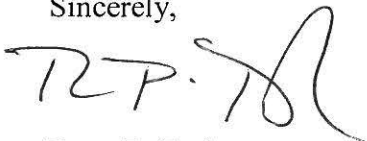
¹ DT 12-107 New Hampshire Public Utilities Commission Staff Report and Recommendation, January 30, 2013; p. 3

Regarding Staff's recommendation that the Commission open a new and separate proceeding to investigate make-ready rates², FairPoint does not agree with this recommendation. Applying the same rationale which Staff used as part of its analysis, FairPoint is not aware of any party since the inception of third party attachments in 1996 that has disputed the costs associated with make-ready work. FairPoint requests that the Commission, in its analysis of this matter, should consider the impact of the breadth and scope of NHOS's Middle Mile project as it relates to the context of its claim that make-ready rates are heavily inflated. To be clear, any entity undertaking a massive project with utility pole attachments to over 23,000 poles should expect a high impact to its operational costs. Moreover, it is easy to see how under the circumstances, the cost of make ready work can be amplified due to NHOS's very aggressive timeline. Presumably, these and other matters were contemplated as part of initial cost modeling. Regardless, the breadth of the Middle Mile project, the aggressive project delivery date, and NHOS's claim that make-ready costs are inflated are all inter-related variables and this situation should not be lost on the Commission. Consequently, considering that these are generally new complaints that are unique to a single party, it is logical to question whether or not a separate investigative proceeding would be a reasonable use of time and resources. As the Staff writes in its recommendation, "The attachment process has clearly taken longer than NHOS expected, based on its interpretation of existing rules and the pole attachment agreement. However, the amount of work required to be performed by multiple companies on thousands of poles in a short period of time, is overwhelming..."³ To FairPoint, spending more time in costly proceedings and litigation does not seem like a reasonable investment of time. FairPoint submits that the Commission should not pursue this any further.

Finally, regarding Staff's mention of a temporary attachment process being trialed in Connecticut, FairPoint is not fully aware of the details of this pilot and is reluctant to comment further until the full details are provided. However, notwithstanding the above, FairPoint's initial reaction is not one of support of such a trial in New Hampshire as the idea appears to be fraught with possible safety and operational concerns.

FairPoint appreciates the opportunity to provide comments on top of Staff's report and recommendation and also recognizes the efforts that the Staff undertook to complete its thorough review process in the matters relating to this proceeding.

Sincerely,



Ryan P. Taylor

² *Id.*, p. 7

³ *Id.*, p. 6



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Cc: Electronic Service List
Susan Chamberlin, Office of Consumer Advocate