

DM 05-172

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: October 20, 2005

AT (OFFICE): NHPUC

FROM: Amanda Noonan, Kate Bailey and Tom Frantz
CW KMB TF

SUBJECT: Recommendation to Open Investigation into Utility Poles

TO: Commission
Executive Director

Over the past year, the Consumer Affairs Division has received 55 complaints from customers waiting to have a utility pole or poles installed. Ninety-six percent of those complaints have been against Verizon. From August 2004 through July 2005, Consumer Affairs received 53 separate complaints from customers who waited, on average, 78 days for Verizon to install a pole or poles. During the same period of time, there was one complaint from a customer who was waiting for PSNH to install a pole and a second complaint from a customer of Granite State Telephone. In those cases, the customers waited 26 and 11 days, respectively.

On average, the Consumer Affairs Division receives 4 new complaints a month from customers waiting for Verizon to set a pole or poles. Customers have expressed deep frustration with the lack of ability to get a firm date from Verizon to do pole work or with Verizon's failure to keep scheduled dates for pole work. Staff has had little success in intervening on the customer's behalf. While Staff perhaps has been able to expedite the process somewhat for customers, it has done so only with great difficulty. Commitment dates provided to staff are often much further out than is acceptable to customers who have already been waiting for two months or more; furthermore, those dates are not always met by Verizon. Staff also has heard anecdotally that the Department of Transportation has experienced delays in highway construction projects as a result of Verizon's inability to move utility poles in a specified period of time.

While the issue of pole installation and removal is acute right now, there are several other issues which should be addressed in a generic investigation regarding utility poles.

- Trimming and Maintenance of Poles: Electric utilities have indicated that Verizon is not fulfilling its obligations under joint pole agreements which may have a significant effect on electric reliability.
- Emergency response: As a result of historic joint pole agreements, Verizon is responsible for maintaining poles in approximately half the towns in the state. At least one electric utility has informed Staff that, in an emergency situation, Verizon has been unable to respond to requests to place new poles in a timely

manner. Such circumstances raise questions about who should be responsible for replacing a pole in an emergency situation and whether that responsibility should be driven by the maintenance areas defined in the joint pole agreements.

- Competitive barriers: Difficulties and delays have also been reported by customers who choose to purchase telephone service from a competitive local exchange carrier (CLEC). Verizon is not obligated to build plant for CLECs, and Verizon will not place a pole if it does not have an order for telephone service to be served from the pole. The Commission should consider how to best address the apparent barrier to competition that may arise in such instances.
- Provisioning delays: Delays in the provisioning of electric service can arise when a customer requires electric service in a telephone utility maintenance area but does not order telephone service from the telephone utility designated to set poles in that particular area.
- CLEC pole attachments: While the Commission does not have the authority to set the rates, terms and conditions for pole attachments, there are other issues related to attachments which the Commission should consider. Section 703 of the 1996 Federal Telecommunications Act requires utilities to provide any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit or right-of-way owned or controlled by the utility. Since the law was enacted, Staff has become aware of the expenses involved when a competitor wishes to attach communications cables to a utility pole. These expenses are in addition to the pole attachment fee established by the FCC. The additional expenses are driven by 1) a charge by Verizon to conduct a physical inspection of the pole with the CLEC to determine if the pole can accommodate an additional attachment within the National Electric Safety Code guidelines; 2) the cost of setting a new, taller pole if the pole cannot accommodate an additional attachment; and 3) the cost of Verizon moving its cable down (because Verizon insists on being the lowest attachment on the pole) to allow a CLEC to attach where Verizon's facility was initially located. The Commission should review Verizon's pole attachment practices and consider if and how the competitive market is impacted by such practices.
- Private Property Construction: There are differences in how the electric utilities and telephone utilities charge for private property construction. Those differences can be confusing to customers. As part of an investigation on utility poles, the Commission should review the policies of the companies, evaluate the cost impact of those policies on customers of both the electric and telephone utilities, and determine if it is appropriate to establish consistent policies between companies to minimize customer confusion and to ensure the cost for private property construction is appropriately recovered.

Staff recommends the Commission open a generic investigation on utility poles to address timely installation and removal of utility poles; to determine whether issues that

have been traditionally addressed by joint pole agreements remain practicable in today's environment; to investigate issues regarding multiple attachers; to consider whether private property construction charges should be revised to make them less confusing to customers and to insure the cost is not borne by the general body of ratepayers; and to determine whether the joint ownership of utility poles remains in the public interest.