

Wensley, Jones & Azarian, P.L.L.C.

Attorneys at Law

40 Wakefield Street
P. O. Box 1500
Rochester, N.H. 03866-1500

e-mail: wwa@joneswensley.com
Web page: www.joneswensley.com

Tel: 603 332-1234
Tel: 603 332-1235
Tel: 603-332-2442
Fax: 603-332-9716

Stephen O. Wallace
(1955-1968)

November 7, 2005

Debra A. Howland
Executive Director & Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429

RE: Public Utilities Commission Docket #DM 05-172, Utility Pole Investigation

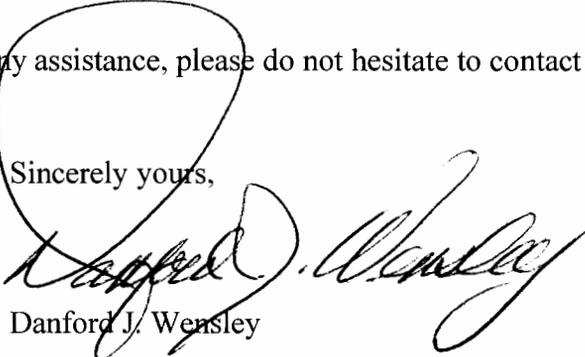
Dear Ms. Howland:

Enclosed herewith please find a "Petition of City of Rochester to Intervene" along with an Appearance by Wensley, Jones & Azarian, P.L.L.C. on behalf of the City of Rochester in regard to the above-captioned matter. Please see that these documents are placed on file with the Commission.

I hereby certify that copies of this letter, our Appearance and the within Petition have this date been forwarded by e-mail and/or first class mail to the service list attached to the Petition and to the Appearance.

If you have any questions or if I may be of any assistance, please do not hesitate to contact me.

Sincerely yours,


Danford J. Wensley

DJW/pjv

Enclosures

CC: Robert D. Steele, City Manager
CC: Service List



David P. Azarian Daniel J. Harkinson Franklin C. Jones Dianna J. Parker
C. Russell Shillaber Danford J. Wensley Donald F. Whittum

The State of New Hampshire
PUBLIC UTILITIES COMMISSION

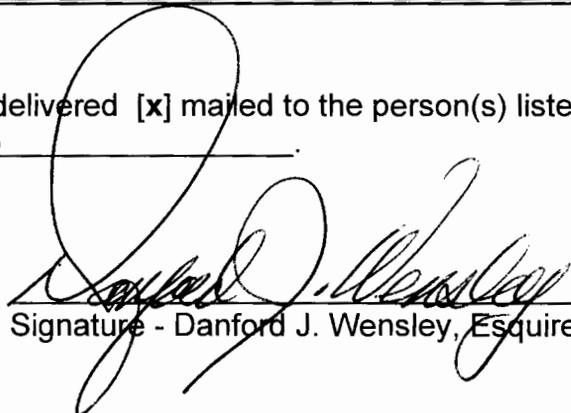
Docket #DM 05-172

APPEARANCE

| APPEARANCE | WITHDRAWAL |
|--|--|
| Please enter my special appearance as: <input checked="" type="checkbox"/> Counsel for: <u>City of Rochester</u> _____ <input type="checkbox"/> Pro Se (appearing for one's self) | Please withdraw my appearance as: <input type="checkbox"/> Counsel for: _____ _____ Notice of Withdrawal sent to my client(s) on: _____ at the following address(es): _____ _____ |

I hereby certify that duplicates of this notice were delivered mailed to the person(s) listed on the attached Service List on November 7, 2005.

Date: November 7, 2005



Signature - Danford J. Wensley, Esquire

Address Wensley, Wirth & Azarian, P.L.L.C.
PO Box 1500, Rochester, NH 03866-1500
Telephone 603-332-2442

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DM 05-172

Utility Pole Investigation

PETITION OF CITY OF ROCHESTER TO INTERVENE

SERVICE LIST

John Andrews
NH Municipal Association
P. O. Box 617
Concord, NH 03302-0617
PH: 603-224-7447
FX: 603-224-5406
jandrews@nhmunicipal.org

kate.bailey@puc.nh.gov

Frederick J. Coolbroth, Esq.
Devine, Millimet & Branch
49 N. Main Street
P. O. Box 3610
Concord, NH 03302
PH: 603-410-1703
fcoolbroth@devinemillimet.com

Victor D. Del Vecchio, Esq.
Verizon New England
185 Franklin Street, 13th Fl.
Boston, MA 02110-1585
PH: 617-743-2323
victor.delvecchio@verizon.com

Gerald M. Eaton, Esq.
Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
PH: 603-634-2961
eatongm@psnh.com

Gary Epler, Esq.
Unitil Energy Systems, Inc.
6 Liberty Lane West
Hampton, NH 03842-1720
PH: 603-772-0775
epler@unitil.com

lynn.fabrizio@puc.nh.gov

tom.frantz@puc.nh.gov

ann.guinard@puc.nh.gov

Jeremy L. Katz
segTEL, Inc.
P. O. Box 369
Enfield, NH 03748
PH: 603-643-5883
FX: 603-643-9854
jeremy@segtel.com

Heather Kaufman
New Hampshire Electric Cooperative
579 Tenney Mountain Highway
Plymouth, NH 03264
PH: 800-698-2007
FX: 603-536-8687
kaufmanh@nhec.com

maryanne.lutz@puc.nh.gov

Tom Meissner
Unitil Energy Systems, Inc.
6 Liberty Lane West
Hampton, NH 03842
PH: 603-772-0775
meissner@unitil.com

Scott J. Mueller, Esq.
LeBoeuf, Lamb, Greene & MacRae
260 Franklin Street
Boston, MA 02110-3173
PH: 617-748-6800
FX: 617-439-0341
smueller@llgm.com

Tom Newbauer
New Hampshire Electric Cooperative
578 Tenney Mountain Highway
Plymouth, NH 03264
PH: 800-698-2007
FX: 603-536-8687
newbauert@nhec.com

Donald Pfundstein, Esq.
Gallagher, Callahan & Gartrell
214 N. Main Street
Concord, NH 03301
PH: 603-228-1181
pfundstein@gcglaw.com

Meabh Purcell, Esq.
LeBoeuf, Lamb, Green & MacRae
260 Franklin Street
Boston, MA 03110-3173
PH: 617-748-6800
FX: 617-439-0341
mpurchell@llgm.com

bob.rohnstock@puc.nh.gov

F. Anne Ross
Office of Consumer Advocate
21 South Fruit Street, Ste. 18
Concord, NH 03301-2429
PH: 603-271-1172
FX: 603-271-1177
anne.ross@puc.nh.gov

William T. Sherry
Granite State Electric Co.
9 Lowell Road
Salem, NH 03079
PH: 603-890-7000
william.sherry@us.ngrid.com

Lisa M. Thorne
Verizon
900 Elm Street, Suite 1927
Manchester, NH 03101-2008
PH: 603-645-2300
lisa.m.thorne@verizon.com

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DM 05-172

Utility Pole Investigation

PETITION OF CITY OF ROCHESTER TO INTERVENE

NOW COMES the City of Rochester, by and through its attorneys, Wensley, Jones & Azarian, P.L.L.C., and moves the Commission to grant the City of Rochester (hereinafter the "City") intervenor status, without limitation, pursuant to RSA 541-A:32 and N.H. Administrative Rule, PUC 203.02. In support of this motion, the City states:

1. The City is a municipal corporation duly organized pursuant to New Hampshire state law with a principal place of business at 31 Wakefield Street, Rochester, New Hampshire.
2. On October 24, 2005, the Public Utilities Commission ("Commission") opened a new docket and initiated a generic investigation on issues related to utility poles in the public rights of way throughout the State of New Hampshire.
3. According to the Order of Notice dated October 24, 2005, "The Commission will investigate issues related to *inter alia* joint ownership of poles by electric and telecommunication utilities; pole installations, replacement and removals; response time to customer requests for service; maintenance obligations and related safety concerns; emergency response, tree trimming; private property construction charges and multiple attachments."

4. The City's rights, duties, privileges, immunities and other substantial interests may be affected by this proceeding. RSA 541-A:32, I(b).
5. The City is responsible for managing aspects of the public ways located within the City. By statute, the Mayor and City Council of the City of Rochester is authorized to grant licenses for poles, wires, conduit and other utility appurtenances to be located in the public ways. RSA 231:160. The City must consider the "public good" when approving placement of such poles, wires, conduit and other utility appurtenances in the City maintained public highways by issuing so-called pole licenses and/or amendments thereto.
6. Issues of safety, maintenance and emergency management are central to the City's management of the rights of way, including granting licenses for poles in the public right of ways or amending those licenses as permitted by RSA 231:163, "whenever the public good requires."
7. The City will have a continuing interest in the practical implications of the Commission's actions in this matter.
8. The City's intervention promotes the interest of justice and the furtherance of the "public good" as that concept is contemplated by RSA 231:161 and RSA 231:163 and will not delay or interfere with orderly and prompt progress of this docket. RSA 541-A:32, I(c). The City will present needed and valuable information regarding safety, maintenance and emergency management issues involving the poles in the public right of way, including the benefits to be derived from and promoted by shared use of utility poles and uniform and consistently applied attachment policies, topics which are central to this investigation. The Commission's authority to issue orders in support of the "public good" includes the

consideration of the interests of the City, its residents and taxpayers, as well as those of the utilities involves and the rate payers.

9. On November 7, 2005, the City contacted the following parties to seek consent for intervention: Lynn Fabrizio, Esq. of the PUC Staff; F. Anne Ross, Office of the Consumer Advocate; Frederick J. Coolbroth, Esq., for the New Hampshire Telephone Association; Victor Del Vecchio, Esq., for Verizon New Hampshire; Gerald M. Eaton, Esq., for Public Service Company of New Hampshire; Jeremy Katz for segTEL, Inc., pro se; Gary Epler, Esq., for Unitil Energy Systems, Inc.; Donald Pfundstein, Esq., for Granite State Electric / National Grid-New Hampshire; and Heather Kaufman, for New Hampshire Electric Cooperative, Robert D. Ciandella, Esq., for municipalities of Exeter, Hanover, Keene, Newmarket, Portsmouth, Raymond, Salem, Seabrook and Stratham.
10. On November 7, 2005, the undersigned attempted by e-mail or telephone communication to contact the following individuals and request consent to file the within Petition: Lynn Fabrizio, Esq. of the New Hampshire PUC; F. Anne Ross, New Hampshire PUC, Office of Consumer Advocate; Frederick J. Coolbroth, Esq., for the New Hampshire Telephone Association; Victor D. Del Vecchio, Esq., for Verizon New England, Inc./Verizon NH; Gerald M. Eaton, Esq., for Public Service Company of New Hampshire; Jeremy Katz for segTEL, Inc.; Gary Epler, Esq., for Unitil Energy Systems, Inc.; Donald Pfundstein, Esq., for Granite State Electric/National Grid-New Hampshire; Heather Kaufman, for New Hampshire Electric Cooperative; and Robert D. Ciandella, Esq., for the municipalities of Exeter, Hanover, Keene, Newmarket, Portsmouth, Raymond, Salem, Seabrook and Stratham. That with the exception of F. Anne Ross for the Public Utilities Commission, Office of Consumer

Advocate, Victor D. Del Vecchio, Esq., for Verizon New England, Inc./Verizon New Hampshire and Heather Kaufman, for New Hampshire Electric Cooperative from whom no response has, as yet, been received, all of the remaining persons receiving notification for the above-mentioned entities have indicated their consent to the filing of the within Petition to Intervene on behalf of the City of Rochester.

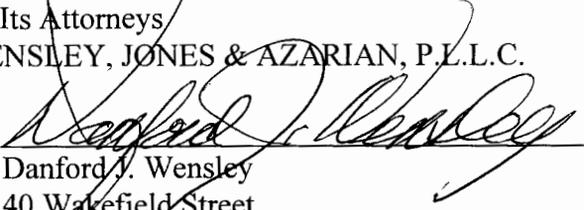
WHEREFORE, the City of Rochester respectfully moves the Commission to:

- A. Accept its petition to intervene; and
- B. Grant such other relief as is just and reasonable.

Respectfully submitted,

THE CITY OF ROCHESTER

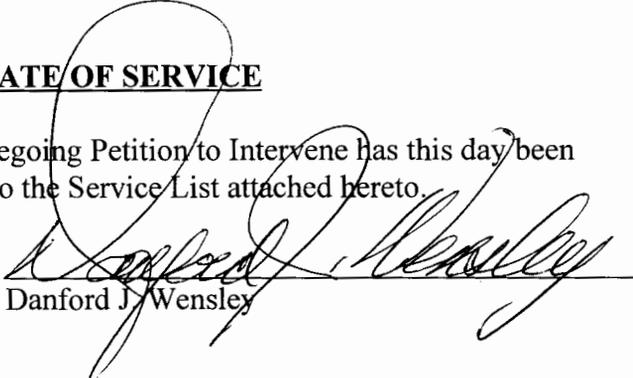
By Its Attorneys
WENSLEY, JONES & AZARIAN, P.L.L.C.

By: 
Danford J. Wensley
40 Wakefield Street
P. O. Box 1500
Rochester, NH 03866-1500

Dated: Nov 7, 2005

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition to Intervene has this day been forwarded via e-mail and/or first class mail to the Service List attached hereto.


Danford J. Wensley

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DM 05-172

Utility Pole Investigation

PETITION OF CITY OF ROCHESTER TO INTERVENE

SERVICE LIST

John Andrews
NH Municipal Association
P. O. Box 617
Concord, NH 03302-0617
PH: 603-224-7447
FX: 603-224-5406
jandrews@nhmunicipal.org

kate.bailey@puc.nh.gov

Frederick J. Coolbroth, Esq.
Devine, Millimet & Branch
49 N. Main Street
P. O. Box 3610
Concord, NH 03302
PH: 603-410-1703
fcoolbroth@devinemillimet.com

Victor D. Del Vecchio, Esq.
Verizon New England
185 Franklin Street, 13th Fl.
Boston, MA 02110-1585
PH: 617-743-2323
victor.delvecchio@verizon.com

Gerald M. Eaton, Esq.
Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
PH: 603-634-2961
eatongm@psnh.com

Gary Epler, Esq.
Unitil Energy Systems, Inc.
6 Liberty Lane West
Hampton, NH 03842-1720
PH: 603-772-0775
epler@unitil.com

lynn.fabrizio@puc.nh.gov

tom.frantz@puc.nh.gov

ann.guinard@puc.nh.gov

Jeremy L. Katz
segTEL, Inc.
P. O. Box 369
Enfield, NH 03748
PH: 603-643-5883
FX: 603-643-9854
jeremy@segstel.com

Heather Kaufman
New Hampshire Electric Cooperative
579 Tenney Mountain Highway
Plymouth, NH 03264
PH: 800-698-2007
FX: 603-536-8687
kaufmanh@nhec.com

maryanne.lutz@puc.nh.gov

Tom Meissner
Unitil Energy Systems, Inc.
6 Liberty Lane West
Hampton, NH 03842
PH: 603-772-0775
meissner@unitil.com

Scott J. Mueller, Esq.
LeBoeuf, Lamb, Greene & MacRae
260 Franklin Street
Boston, MA 02110-3173
PH: 617-748-6800
FX: 617-439-0341
smueller@llgm.com

Tom Newbauer
New Hampshire Electric Cooperative
578 Tenney Mountain Highway
Plymouth, NH 03264
PH: 800-698-2007
FX: 603-536-8687
newbauer@nhec.com

Donald Pfundstein, Esq.
Gallagher, Callahan & Gartrell
214 N. Main Street
Concord, NH 03301
PH: 603-228-1181
pfundstein@gcglaw.com

Meabh Purcell, Esq.
LeBoeuf, Lamb, Green & MacRae
260 Franklin Street
Boston, MA 03110-3173
PH: 617-748-6800
FX: 617-439-0341
mpurchell@llgm.com

bob.rohnstock@puc.nh.gov

F. Anne Ross
Office of Consumer Advocate
21 South Fruit Street, Ste. 18
Concord, NH 03301-2429
PH: 603-271-1172
FX: 603-271-1177
anne.ross@puc.nh.gov

William T. Sherry
Granite State Electric Co.
9 Lowell Road
Salem, NH 03079
PH: 603-890-7000
william.sherry@us.ngrid.com

Lisa M. Thorne
Verizon
900 Elm Street, Suite 1927
Manchester, NH 03101-2008
PH: 603-645-2300
lisa.m.thorne@verizon.com