

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

November 10, 2005 - 1:44 p.m.
Concord, New Hampshire

RE: **DM 05-172**
INVESTIGATION INTO THE TIMELY
INSTALLATION/UN-INSTALLATION OF
UTILITY POLES.
(Prehearing conference)

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Graham J. Morrison
Commissioner Michael D. Harrington

Jody Carmody, Clerk

APPEARANCES: **Reptg. Verizon New Hampshire:**
Victor D. Del Vecchio, Esq.

Reptg. Public Service Co. of New Hampshire:
Gerald M. Eaton, Esq.

Reptg. Granite State Electric d/b/a National
Grid - New Hampshire:
Colin Owyang, Esq.

Reptg. Unutil Energy Systems, Inc.:
Gary M. Epler, Esq.

Reptg. New Hampshire Electric Cooperative:
Mark W. Dean, Esq.

Court Reporter: Steven E. Patnaude, CCR

ORIGINAL

1 **APPEARANCES: (C o n t i n u e d)**

2 **Reptg. segTEL, Inc.:**
Jeremy L. Katz

3

4 **Reptg. N. H. Telephone Association:**
Frederick J. Coolbroth, Esq.

5 **Reptg. Freedom Ring d/b/a BayRing Comm.:**
Steven Wengert

6

7 **Reptg. Associated Gen. Contractors of N. H.:**
Gary A. Abbott, Executive Vice President

8 **Reptg. the City of Concord, N. H.:**
Paul F. Cavanaugh, Esq., City Solicitor

9

10 **Reptg. the municipalities of Exeter, Hanover,**
Keene, Newmarket, Portsmouth, Raymond, Salem,
Seabrook and Stratham:
Robert D. Ciandella, Esq.

11

12 **Reptg. the Local Government Center:**
Maura Carroll, Esq.

13

14 **Reptg. the Town of Hampton, N. H.:**
Mark S. Gearreald, Esq.

15 **Reptg. George E. Sansoucy, P.E., LLC:**
Philip L. Munck

16

17 **Reptg. the City of Rochester, N. H.:**
Danford J. Wensley, Esq.

18 **Reptg. the N. H. Dept. of Transportation:**
Lynmarie C. Cusack, Esq., Asst. Atty. General

19

20 **Reptg. New England Cable & Telecom. Assn.:**
William D. Durand, Esq.

21 **Reptg. Residential Ratepayers:**
F. Anne Ross, Esq., Consumer Advocate

22

23 **Reptg. the NHPUC Staff:**
Lynn Fabrizio, Esq.

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1 The difference between intervening as a
2 party and making a public comment is this: If you are a
3 party to a proceeding, and you've demonstrated a right,
4 duty or interest that's affected by this proceeding, then
5 you will be in a position where you can do
6 cross-examination of witnesses, to the extent we get to a
7 full-blown hearing with testimony, you can provide
8 testimony and file briefs. You can also make comments at
9 any time. To make a public comment during this
10 proceeding, to follow the proceedings, to get copies of
11 official documents in this proceeding, you do not need to
12 be a full party in interest or an intervenor. So, I would
13 just like to try to explain that at this point.

14 After the prehearing conference, there
15 will be a technical session off the record, where the
16 Commissioners will not be present, and that, given the
17 size of this proceeding, I think a good deal of that will
18 be directed to trying to come to some conclusions about
19 what the procedural schedule would be. And, also, given
20 the number of parties, the number of issues, I also would
21 expect that there would be more than one technical
22 conference, but that will be something that we tend to
23 defer to the parties on how they want to -- how they want
24 to proceed.

1 I also have a couple of lists of motions
2 to intervene, and it also looks like there are some
3 parties who are here today who haven't filed motions. So,
4 what I intend to do is go through the docket book filings
5 that we have, and I will start with Staff, and then I will
6 go through all the parties who have moved to intervene in
7 the order that we received them, and give those parties an
8 opportunity to explain their position. And, then, I will
9 turn to interested parties who are here today, who haven't
10 filed a motion to intervene, and give them a chance to
11 make a public comment. And, then, also, to the extent
12 there's anybody here who's not on either of these lists
13 and who's seeking to intervene, then we'll hear those
14 issues at the end. And, in the parties -- the discussion
15 of the parties, after the motions to intervene, I'll turn
16 to the mandatory parties.

17 So, I will turn now to Staff. But, if,
18 during the process, there's any questions, please let me
19 know and we'll try to deal with them.

20 Ms. Fabrizio.

21 **MS. FABRIZIO:** Thank you, Mr. Chairman.
22 The number of complaints and inquiries coming into the
23 Commission staff, not only through the Consumer Affairs
24 Division, but through the Electric and Telecom Divisions

1 as well, suggest the time is ripe for a generic
2 investigation into utility pole-related issues.

3 Staff is not proposing a finger-pointing
4 exercise or a squabble over numbers and characterizations
5 of complaints. And, we see these issues as separate and
6 distinct from the quality of service docket the Commission
7 opened in 2004. The range of issues that have been raised
8 through a wide variety of sources, not to mention the
9 amount of interest demonstrated by today's attendance,
10 simply confirms that our concern and our desire for a
11 practical and comprehensive discussion is well-grounded.

12 The issues that have been raised in
13 calls to Staff touch on the timely installation and
14 removal of poles; the trimming and maintenance of poles;
15 utility response to emergency situations; potential
16 competitive barriers created by the current structure of
17 pole ownership and responsibility, that is, problems in
18 coordination between telecommunications and electric
19 service, as well as between telecommunications providers;
20 provisioning delays; and charges for private property
21 construction.

22 In Staff's view, the range of issues
23 raised, and the level of complaints received, warrant an
24 investigation into what is really going on. Staff will

1 seek to determine whether the issues that have been
2 traditionally addressed by joint pole agreements remain
3 practicable in today's environment; to investigate issues
4 regarding multiple attachers; to consider whether private
5 property construction charges should be revised to make
6 them less confusing to customers; and to determine whether
7 the joint ownership of utility poles remains in the public
8 interest.

9 The issues raised in this docket concern
10 electric as well as the telecommunications service. In
11 fact, that is why Staff recommended that the electric
12 utilities as well as the primary incumbent telephone
13 utility be made mandatory parties. Given the importance
14 of the public infrastructure, a thorough evaluation of
15 these issues is necessary. And, the experiences of each
16 of the electric utilities and Verizon, as well as other
17 interested parties, are crucial to that thorough
18 evaluation.

19 Staff views this investigation as an
20 opportunity to clarify the scope of issues that appear to
21 be affecting a very broad range of interested parties, to
22 pinpoint specific breakdowns in the current system of
23 utility pole management, and to reach an acceptable
24 solution to the issues that have been raised.

1 Because these issues are quite broad in
2 scope, we will seek to work with interested parties to
3 prioritize the order in which they should be addressed,
4 and we may further recommend that certain issues be
5 resolved before moving on to other aspects of the
6 investigation.

7 Thank you.

8 **CHAIRMAN GETZ:** Thank you. Ms. Ross.

9 **MS. ROSS:** Thank you. Good afternoon
10 Commissioners. I'm Anne Ross, with the Office of Consumer
11 Advocate. Our office is alarmed by the number of consumer
12 complaints which have been summarized in the Staff's
13 October 20 report. It is apparent that utility pole
14 issues seem to be on the rise at an alarming rate. In
15 particular, it appears that Verizon is not meeting its
16 operational responsibilities to either its customers, the
17 general public at large, or to its utility partners, when
18 it comes to pole installation and maintenance issues.

19 Public safety, the competitive market,
20 consumer satisfaction, service quality, and service
21 reliability are all issues that can be negatively
22 impacted, not only for Verizon, but for any entity that
23 occupies space or seeks to occupy space on a pole jointly
24 owned by Verizon.

1 The OCA looks forward to participating
2 in this docket on behalf of residential ratepayers, to
3 ensure that all issues regarding responsibilities for pole
4 ownership and maintenance are being met as required by the
5 public good. Thank you.

6 **CHAIRMAN GETZ:** Thank you. Mr. Katz,
7 from segTEL. I also point out, you may have, if there's
8 not a microphone close by, you may have to come up to the
9 podium, so that the stenographer can record everything.

10 **MR. KATZ:** Good afternoon, Mr. Chairman.
11 My name is Jeremy Katz. And, I represent segTEL. And,
12 segTEL is a competitive local exchange provider in New
13 Hampshire. We seek to self-deploy our own fiber-based
14 facilities, and to that extent we have applied for
15 licenses to attach to over 2,000 utility poles in New
16 Hampshire in the last year. We believe it's highly likely
17 that the amount of poles that we apply to attach to in the
18 upcoming years will be substantially more than that. We
19 believe we have a substantial amount of experience that we
20 can contribute to this investigation. And, our primary
21 concern is whether or not the present system presents
22 barriers to entering, in terms of our self-deployment.

23 And, on November 7th, I added a motion
24 for the clarification of the scope of the investigation,

1 because my interpretation of the original order of notice
2 was that a lot of the inquiry was focussed upon Verizon's
3 response to pole attachment and pole maintenance issues.
4 And, I believe that, as joint custodians of the poles,
5 that the electric companies also are substantial players
6 in this, even with regards to competitive utility
7 deployment. And, we would like to ensure that we have an
8 ability to discuss our experiences with the electric
9 providers as well.

10 Thank you.

11 **CHAIRMAN GETZ:** Thank you. The New
12 Hampshire Telephone Association, Mr. Coolbroth.

13 **MR. COOLBROTH:** Thank you, Mr. Chairman.
14 Good afternoon, Commissioners. On behalf of the New
15 Hampshire Telephone Association, I'm Frederick Coolbroth,
16 of the firm of Devine, Millimet & Branch, in Concord. We
17 have petitioned to intervene in this proceeding. The
18 member companies of the New Hampshire Telephone
19 Association are incumbent local exchange carriers in their
20 service territories. While we're not aware of any of the
21 performance issues that are the subject of the Staff
22 memorandum having been issues with our companies, to the
23 extent that this generic proceeding is going to make
24 decisions regarding the joint ownership of poles, that

1 will directly affect us. We are joint owners of poles.
2 And, in some cases, attaching carriers in various
3 locations. So, we are directly affected.

4 I will note that the Staff memo makes
5 reference towards even a single complaint of Granite State
6 Telephone, and Granite State Telephone has looked and can
7 find no record of that complaint internally within the
8 company. So, they weren't aware of the specific instance
9 that was raised in the Staff's memo. As I say, these
10 companies have prided themselves on the services they
11 provide, and, at the same time, do need to be players here
12 if generic issues regarding poles are going to be
13 addressed. Thank you.

14 **CHAIRMAN GETZ:** Thank you. Freedom
15 Ring, Ms. Hassen. Obviously, you're not Ms. Hassen.

16 **MR. WENGERT:** Obviously. My name is
17 Steven Wengert, representing Freedom Ring, BayRing
18 Communications. We're a CLEC in the State of New
19 Hampshire, also as with segTEL, we would mimic his
20 thoughts concerning the issues that he raised. Also,
21 another point we would like to raise is the time frame
22 from application to the ability to get a license for the
23 attachments as well, being, normally, on average between
24 six and to eight months, which is a very long time frame.

1 Also, the cost associated with Verizon at this point
2 establishing that they require to be the lowest on the
3 pole. In the Seacoast of New Hampshire, there's been a
4 lot of, over the years, movement from Verizon that we had
5 to pay for, where it was Verizon and the power company,
6 but Verizon had to make a move to allow us to go on the
7 pole, because they moved down more.

8 So, those are the issues that we see in
9 this case as well. Thank you.

10 **CHAIRMAN GETZ:** Thank you. Union
11 Telephone?

12 (No verbal response)

13 **CHAIRMAN GETZ:** The Associated General
14 Contractors, Mr. Abbott.

15 **MR. ABBOTT:** Thank you. My name is Gary
16 Abbott. I'm the Executive Vice President of the
17 Associated General Contractors of New Hampshire. I want
18 to first apologize for any mistakes I might have made in
19 the intervening. We have since sent out our intervening
20 letter to the service list this morning as I found out
21 that we were supposed to do that by Monday. So, I want to
22 apologize in advance for any errors that we might have
23 made in that proceeding. Who we are, we represent
24 commercial and industrial building contractors and highway

1 contractors and subcontractors and suppliers. We
2 represent a large majority of the highway contractors in
3 the state. This issue has been growing for us, in the
4 sense that there's becoming more and more concern about
5 utility movement on state highway construction projects.
6 Enough that the Association in June did a survey of those
7 highway contractors, regarding complaints and problems
8 with utility movement. I can tell you that the survey had
9 77 percent of those that responded had issues with utility
10 movement.

11 The agency board of directors then took
12 an action that requested that I, one, start to meet with
13 appropriate utilities that were coming through that
14 survey, trying to rectify the issues that we're having on
15 state highway construction projects. The other thing that
16 they asked me to do was we proposed to the Department of
17 Transportation contractual language and their
18 specifications regarding financial compensation for delays
19 caused by others outside of the construction industry
20 where the general contractor has control. We presented
21 that to DOT in August. Currently, DOT allows for time
22 extensions only. And, our request was financial
23 compensation if it pushed us into a new construction year.
24 So, this concern on our part has some financial

1 implications on contractors doing work for the State and
2 trying to meet their contractual obligations.

3 So, that's why we intervened in this,
4 because, at the same time we were working on this that I
5 got the Department of Public Utilities Commission's
6 actions for this docket. And, so, we felt it was
7 appropriate to intervene in this, and look forward to
8 working with the PUC.

9 **CHAIRMAN GETZ:** Thank you. City of
10 Concord?

11 **MR. CAVANAUGH:** Is that on?

12 **CMSR. HARRINGTON:** Yes.

13 **MR. CAVANAUGH:** Yes. My name is Paul
14 Cavanaugh. I'm the City Solicitor for Concord. We filed
15 to intervene, and I think our primary reason for wanting
16 to intervene is a deep concern about the safety, public
17 safety. There are, currently, I understand at least 102
18 double poles in Concord. Some of these poles have been
19 put up because of the fact that the original pole is
20 deemed to be unsafe. And, these poles stay there because
21 Verizon has not moved its wires from the old pole to the
22 new ones. We have quite a bit of concern about that,
23 because of the fact that we have our fire cables,
24 municipal communications, and other carrier communications

1 that are necessary for the safety of the citizens of
2 Concord, and we think they're being endangered by this.
3 And, we would like to have some kind of resolution as to a
4 timetable as to when these should be done and how they're
5 going to be done. And, we also have some other concerns
6 about the question of attachments to the poles and the
7 City's rights to have those attachments for its fire cable
8 and for other municipal uses.

9 **CHAIRMAN GETZ:** Thank you. Sprint,
10 Nextel?

11 (No verbal response)

12 **CHAIRMAN GETZ:** We have the
13 municipalities of Exeter, Hanover, Keene, Newmarket,
14 Portsmouth, Raymond, Salem, Seabrook and Stratham.

15 **MR. CIANDELLA:** Mr. Chairman, members of
16 the Commissioners, I'm Rob Ciandella, of Donahue, Tucker &
17 Ciandella. And, I'm here this afternoon on behalf of nine
18 municipalities; Exeter, Hanover, Keene, Newmarket,
19 Portsmouth, Raymond, Salem, Seabrook and Stratham. And,
20 we've filed a petition on behalf of those nine
21 municipalities to intervene without limitation.

22 The interest of these municipalities is
23 really tied to the responsibilities that these
24 municipalities and other municipalities have under New

1 Hampshire law to manage the right-of-way. The
2 municipalities are responsible for the safety of the
3 right-of-way and they permit by license the installation
4 of the poles and other facilities within the right-of-way.
5 And, their authority in that regard is based on public
6 good.

7 In addition, municipalities, since
8 September 11, have had significant emergency management
9 responsibilities, which have devolved upon them, and the
10 municipalities have a vital interest in issues relating to
11 what has been a historic dedication of space on the poles
12 for the discharge of emergency management responsibilities
13 and public safety responsibilities.

14 So, these municipalities have a direct
15 and substantial interest in this generic investigation.
16 And, just to close, some of the issues in the Staff
17 report, which may not, on the surface, seem to directly
18 affect the municipalities, we think do, because they're
19 really tied to economic development, because
20 telecommunications infrastructure is vital to economic
21 development and the economy we're in. And, so, issues
22 about access to the poles and private -- the types of
23 issues that are described in the Staff report are
24 important to these municipalities on an economic

1 development basis.

2 Thank you.

3 **CHAIRMAN GETZ:** Thank you. Local
4 Government Center?

5 **MS. CARROLL:** Thank you, Mr. Chairman,
6 members of the Committee. My name -- the Commission,
7 excuse me. My name is Maura Carroll. I serve as General
8 Counsel to the Local Government Center. We represent, as
9 clients, 233 of New Hampshire's municipalities. And, as
10 Attorney Ciandella indicated, there are a great deal of
11 issues that our members have had with regard to poles. In
12 fact, we have had a number of internal committee meetings
13 discussing the avenues we might be able to take in order
14 to address this. So, we think that there is a great
15 interest on the part of our members. Not all members are
16 in a position to intervene individually, and we certainly
17 are happy to work together with the other attorneys that
18 are representing the municipalities, for the sake of order
19 of the Commission.

20 Thank you very much.

21 **CHAIRMAN GETZ:** Thank you. The Town of
22 Hampton?

23 **MR. GEARREALD:** Good afternoon. My name
24 is Mark Gearreald. I'm the Town Attorney for the Town of

1 Hampton. The Town of Hampton is interested in these
2 proceedings, because we have, as does the City of Concord,
3 a number of situations already where there are two-pole
4 type situations; the new pole being installed and the old
5 pole being left in place, often because of Verizon delays.
6 At last count, we have 17 such poles down at Hampton
7 Beach. Both in the past and currently, the Town of
8 Hampton has been involved in some major construction
9 projects. One of those, which began in the Fall of 2000,
10 was the reconstruction and widening of Route 1, Lafayette
11 Road, which runs through the center of Hampton. And, that
12 was a project, because it's a State road, that was funded
13 primarily by State monies. The major contractor was
14 Severino Construction. And, Severino, as I understand it,
15 encountered such delays in Verizon's moving of its wires
16 and equipment from one pole to the new pole, that they
17 basically had to abandon the project for several weeks at
18 a time. As I understand it, in the Fall of 2000, they --
19 when Severino had stopped its work, it said "we're going
20 to give you the whole winter, Verizon, to come back and
21 move your stuff. And, we're going to come back by that
22 date in the spring." And, when they came back in the
23 spring, Verizon still hadn't done its work, and they had
24 to stop work for another five weeks.

1 Basically, I don't know if that cost the
2 State money, but it certainly caused delays. We would
3 like to avoid that type of delay in connection with a
4 project that's ongoing at this point, which is a \$12
5 million infrastructure improvement project at Hampton
6 Beach, which is designed to encourage the development of a
7 year-round resort at Hampton, which will encourage tourism
8 that will have a beneficial impact not only for the Town,
9 but the state regionally and statewide.

10 In connection with that, we're putting
11 in sidewalks throughout Hampton Beach and widening roads
12 there. And, in connection with that, a number of poles
13 are having to be relocated. And, as has been explained
14 somewhat already, when you have a pole with the electric
15 utility at the top, and, as you go down the pole, you then
16 have -- the cable company has its wires, Verizon has its
17 wires, and the Town actually has fire alarm wires. And,
18 as the new pole is being put in, the electric company will
19 take its stuff first off the top and put it on the new
20 pole. They sometimes cut the new pole -- cut the old
21 pole, and, as they go down, they keep cutting the pole.
22 We don't want -- We think it would be almost catastrophic
23 to have the same situation occur at this Hampton Beach
24 project, as we had at Route 1. Not only would it be an

1 unsightly situation if two poles are left in place, but
2 also we would end up having an unsafe situation.

3 And, just as an example of what might
4 occur, I have a couple of pictures showing what happens
5 when the pole gets cut. In this particular case, this is
6 a pole down at Hampton Beach, not in connection with the
7 project, but one that's been there for a while. Where the
8 old pole has not only been cut from above, but cut from
9 below. That's not exactly a safe situation.

10 The construction project at Hampton
11 Beach, because of the current nature of the seasonal
12 nature of the beach business, is being phased in such a
13 way that the contractor is there doing all its road and
14 sidewalk work in the winter months, and basically avoiding
15 the major part of the beach in the summer months, so we'll
16 still have a viable tourism industry. If the pole
17 situation is such that the contractor is delayed, not only
18 will it cost us money, but it will also potentially run
19 that project into the middle of the summer, which has the
20 potential to devastate our tourism industry for that whole
21 season.

22 And, those are our interests in seeking
23 to intervene. We have filed a Preliminary Statement of
24 Position today, and have copies, if need be, but the

1 original is on file today with the Commission.

2 Thank you.

3 **CHAIRMAN GETZ:** Let me just note, as a
4 technical matter, we're not going to be marking for
5 identification or accepting as exhibits these pictures
6 that you've provided today. But I would suggest that you
7 make them available to the affected utilities. And, to
8 the extent that becomes an issue in the hearing, then
9 we'll address whether they should be entered as exhibits
10 into the proceeding and whether we should take cognizance
11 of them.

12 **MR. GEARREALD:** Thank you very much.

13 **CHAIRMAN GETZ:** Mr. Sansoucy.

14 **MR. MUNCK:** Thank you, Commissioners.

15 My name is Philip Munck. I'm an associate of
16 Mr. Sansoucy's who couldn't be here today. And,
17 Mr. Sansoucy has an interest in contributing to this
18 docket through his extensive background in utility -- in
19 utility issues. He's also concerned as a commercial
20 property owner, who's been unable to get response to the
21 installation of some utilities that he's requested, has
22 been unable to get detailed cost estimates, he feels, in
23 part, because the Verizon engineer for northern New
24 Hampshire, Northern Vermont and northwestern Maine has

1 been out on sick leave.

2 Thank you, sir.

3 **CHAIRMAN GETZ:** Okay. Let me just note
4 as a procedural matter, we won't be dealing in this
5 proceeding with specific complaints. All kinds of
6 information will be made available to help us make generic
7 decisions. But, to the extent Mr. Sansoucy is making a
8 specific complaint, we will address that outside of this
9 docket.

10 **MR. MUNCK:** Yes, sir. Mr. Sansoucy is
11 demonstrating his interest in this proceeding by it.

12 **CHAIRMAN GETZ:** Okay. Thank you. The
13 City of Rochester?

14 **MR. WENSLEY:** Thank you, Mr. Chairman
15 and members of the Commission. My name is Dan Wensley,
16 with the firm of Wensley, Jones & Azarian, in Rochester.
17 And, I'm here today representing the City of Rochester and
18 the Rochester Mayor and City Council, in their capacity as
19 licensing authority for pole licenses under RSA 231:159 to
20 184. We have asked that we file a petition to intervene
21 without limitation, because, in the City of Rochester,
22 there are, according to some information that we've been
23 supplied by Verizon, approximately 7,000 telephone poles.
24 In other information, they now claim there is only 4,800.

1 Where we lost the 2,100 poles, I'm not quite sure. But,
2 in any event, somewhere between 4,800 and 6,900 poles are
3 located within the City of Rochester. And, the City of
4 Rochester, as -- in its capacity as a municipality, has
5 the responsibility for maintaining a good part of those
6 public highways, as does the State, with regard to certain
7 other portions of them.

8 In that capacity, they have
9 responsibility for maintaining the rights-of-way in a safe
10 manner. And, obviously, the proliferation of obstructions
11 in the right-of-way, which is occasioned by the location
12 of the utility poles in the rights-of-way, creates a very
13 significant issue. And, certainly, issues such as joint
14 pole ownership and attachments are ones that can lead to
15 or prevent further proliferation of obstructions in the
16 public rights-of-way.

17 Also, the City is a first responder in
18 instances where telephone poles, either through accident
19 or through acts of God, come down or bend over and require
20 response. And, very often, the City finds itself in a
21 position where it has to dispatch fire or police personnel
22 to patrol those areas on an ongoing basis, until such time
23 as somebody shows up to fix the problem. And, therefore,
24 the delayed response time that's mentioned in the Staff's

1 notice of this or request of this proceeding is of
2 significant importance to us.

3 Also, as licensing authority, the Mayor
4 and City Council have a responsibility for balancing the
5 issue of public good. Just as this Commission does in
6 certain other aspects of the regulation of utility poles.
7 And, we believe that we could contribute to the resolution
8 of this type of issue in a way that is fair and equitable
9 for everybody concerned, by bringing to the table some of
10 the issues which municipalities, selectmen in towns and
11 mayors and city councils in cities, have to address when
12 they're called upon to license utility poles. Among those
13 certainly are limiting the proliferation, as I indicated,
14 the joint licensing issue, which I think is critical at
15 this point in time, and the assignment between the joint
16 licensees of responsibility for response.

17 And, other issues that we believe are
18 implicated by this are the placing of wires underground,
19 as being a potential way in which to limit the problems
20 that arise with respect to response time in dealing with
21 safety concerns arising out of poles being damaged in
22 accidents or through acts of God.

23 It is important, we do have as well
24 issues regarding dual poles, delays in responding to the

1 need to remove poles. I mean, most -- the state statutes
2 do provide that, if notice is given, poles are to be moved
3 in ten days. Well, that just practically does not happen.
4 And, in fact, as some have indicated, sometimes there are
5 horror stories about months, if not multiple months, going
6 by before adequate response is made in regard to the issue
7 of moving poles.

8 I also think it's important that we
9 discuss during the course of this situation, as many
10 people here will know, Verizon has distributed to many
11 municipalities an attachment agreement and asked for
12 municipalities to sign on to that. Anyone -- it's about
13 an inch thick document, which is, from our standpoint,
14 entirely one-sided, unfair, and inconsistent with the
15 public good. And, therefore, we feel that that's an issue
16 that needs to be dealt with here, in order to establish a
17 mechanism that deals with the attachment issue, in the
18 same way that municipalities have dealt with the
19 proliferation of wireless attachments. They, in many
20 instances, passed ordinances that require multiple
21 attachments on towers. It's proven to be a very effective
22 means of stopping the proliferation of unsightly towers
23 that do nothing to promote New Hampshire as a, you know,
24 it used to be on our plates "Scenic New Hampshire". Well,

1 the proliferation of those poles do anything but promote
2 the state as a scenic area. And, we believe that the
3 issue of pole -- multiple pole attachments can be dealt
4 with in such a way as to stop that type of proliferation
5 with regard to routine telephone and utility poles.

6 So, we would ask to be admitted as an
7 intervenor for the purpose of bringing those issues before
8 the Commission. Thank you.

9 **CHAIRMAN GETZ:** Thank you. The New
10 Hampshire Department of Transportation?

11 **MS. CUSACK:** Mr. Chairman,
12 Commissioners, my name is Lynmarie Cusack, from the
13 Attorney General's Office, representing the Department of
14 Transportation. As you've heard from several people here
15 today, one being the General Contractors Association, and
16 others being some of the municipalities, the Department of
17 Transportation has some of the same problems, or, in fact,
18 deeper problems. In that, the utilities are in the
19 right-of-way by sufferance. And, when construction
20 projects come along and need to be moved forward, and the
21 utilities don't move, it delays the project by some amount
22 of time. It could be a week, it could be two weeks, it
23 could be months.

24 With the widening of the I-93 project

1 coming along, and the problems that we currently have with
2 utilities delaying and not getting out of the right-of-way
3 in the time that they have already given us, saying "we
4 will get out of the right-of-way in such and such a time
5 frame. We will get out of there by this date." And,
6 then, don't get out of there by that date, this I-93
7 project will be significantly affected. This is a project
8 that GARB bonds have been presented for, so that the
9 project will take a less period of time than the original
10 estimate for it. When a delay happens early on in the
11 project, that will impact the project, we won't get
12 finished the I-93 project in the time frame that we
13 originally scheduled to be done.

14 Some of the problems, and I'm not going
15 to get into them today, and we can do that with Staff, are
16 not only poles and the removal of the poles, but the
17 removal of underground conduit, or, generically, any
18 underground system, such as manholes and that sort of
19 thing. These are also things that, when a delay occurs,
20 it delays an entire project.

21 What we're asking, and I haven't heard
22 today anybody suggest what it is that they want to see out
23 of the investigation, the Department of Transportation is
24 looking for a remedy that requires the utility to be

1 accountable for the delays that they contribute to or that
2 are inherent in them moving. And, what we would ask, and
3 what we'll try to look at with your staff, is that the
4 Commission set up a system of fines for the utilities,
5 when they don't move in a timely period or the timely
6 manner that they should have moved.

7 Thank you.

8 **CHAIRMAN GETZ:** Thank you. The New
9 England Cable and Telecommunications Association.

10 **MR. DURAND:** Thank you, Mr. Chairman,
11 Commissioners. My name is Bill Durand. I'm the Executive
12 Vice President and Chief Legal Counsel for the New England
13 Cable and Telecommunications Association, otherwise known
14 as "NECTA". We represent substantially all of the cable
15 companies here in New Hampshire and in the remaining five
16 New England states. Our interest is that we rent pole
17 space. These are critical to our business. And, I guess
18 we move on the adage that "even paranoids have real
19 enemies". And, whenever you have a docket involving
20 poles, we move to participate.

21 So, in short, our interest originally
22 was to monitor this proceeding. But we think that we'll
23 circulate the issues that have been raised today to our
24 members, and we think we can add a great deal to the

1 docket.

2 Thank you.

3 **CHAIRMAN GETZ:** Thank you. That
4 completes the list of petitions for intervention that we
5 have received. The plan would be now to turn to the
6 utilities that were made mandatory parties, and then to
7 hear public comments from individuals who are not seeking
8 to be parties, but want to make comments for our
9 consideration at the beginning of this proceeding. But,
10 before I turn to the utilities, is there anyone else who
11 is seeking to intervene in this proceeding?

12 (No verbal response)

13 **CHAIRMAN GETZ:** Okay. Hearing nothing,
14 then we will turn to Verizon. Mr. Del Vecchio.

15 **MR. DEL VECCHIO:** Thank you, Mr.
16 Chairman. Good afternoon, Commissioner Morrison and
17 Commissioner Harrington. Victor Del Vecchio, representing
18 Verizon. I will actually be brief. My comments are as
19 follows: First, Verizon looks forward to participating in
20 this generic investigation, and I emphasize that it is a
21 "generic investigation", as identified by your order of
22 notice. Secondly, Verizon is here to listen, understand
23 the issues, and have a meaningful opportunity to respond
24 to any concerns as voiced at the upcoming, I anticipate,

1 technical sessions. Thirdly, in that regard, Verizon
2 views this proceeding as entailing a series of workshops,
3 commencing today, and allowing the parties to identify
4 issues and to research the variety of topics listed in the
5 order of notice and as explained by certain of the parties
6 today.

7 And, finally, along those lines, since
8 some folks have mentioned numbers of complaints, I would
9 note that the benefit of workshops would be to permit the
10 parties, for example, to explore certain of those.
11 Because our preliminary review of the number of complaints
12 identified in the Staff's report is that it may be
13 substantially overstated. That is, when you direct your
14 attention to those particular complaints that reasonably
15 relate to undue delays caused by Verizon in provisioning
16 poles, the number is significantly less than that
17 identified in the report. But then, again, only an
18 opportunity to respond and provide information, the
19 workshops would provide that information.

20 So, we look forward to this process,
21 Commissioners, and we will participate, obviously, in the
22 upcoming workshops.

23 **CHAIRMAN GETZ:** Thank you. Public
24 Service Company of New Hampshire.

1 **MR. EATON:** Good afternoon, Mr. Chairman
2 and Commissioners. My name is Gerald Eaton. I am Senior
3 Counsel for Public Service Company of New Hampshire, which
4 is an electric utility serving a great portion of the
5 state. PSNH owns a half interest in utility poles and
6 anchors together with several telecommunications companies
7 throughout our service territory. The joint ownership is
8 managed between the companies through the Joint Use
9 Agreement and associated Inter-company Operating
10 Procedures. One of the key facets of the Joint Use
11 Agreement is the definition of established maintenance
12 areas for each company, which attempts to split evenly the
13 pole-related workload between the electric and telephone
14 companies within their respective service territories.

15 Many of the issues being investigated in
16 this docket are related to procedures which are set forth
17 in the Joint Use Agreements and Inter-company Operating
18 Procedures. Specifically, pole installations,
19 replacements, removal, maintenance obligations, tree
20 trimming and attachments are all addressed by the Joint
21 Use Agreements and Inter-company Operating Procedures.

22 PSNH takes great pride in being
23 responsive to our customers' needs, as well as the state
24 Department of Transportation and municipalities, by

1 providing timely pole installations, replacements and
2 removal within our maintenance area. We are not always in
3 complete control in the timing of these services, however,
4 as there are often multiple companies with facilities
5 attached to the poles with whom we must coordinate to
6 complete our construction requirements. And, these are
7 the cable, telephone, and municipal services that are
8 associated with the poles.

9 PSNH is extremely responsive to
10 emergencies in the field regarding our facilities.
11 Municipalities depend on us as the first utility to
12 respond to all pole accidents, not only because of the
13 danger involved with electric service, but also because of
14 our record of responding promptly. In order to respond to
15 emergencies in a timely fashion, PSNH maintains 25 line
16 workers or approximately 13 percent of our crews on paid
17 standby status 24 hours per day, 365 days per year. And,
18 we add additional standby personnel on major holidays. In
19 addition, PSNH requires line workers to maintain their
20 residence within a 20-minute drive of their normal
21 reporting location to further expedite response time to
22 emergencies and power outages.

23 Maintenance tree trimming is a major
24 required activity to protect utility poles and

1 infrastructure. PSNH invests approximately \$7 million
2 annually throughout our entire service area trimming trees
3 in accordance with good utility practices. In addition to
4 maintenance trimming, vegetation is removed for new
5 utility plant construction, during restoration from power
6 outages, and also the so-called "troublesome trees", which
7 are identified and removed as a potential cause of an
8 outage in the future.

9 Regarding private property construction
10 charges, fees are typically assessed based upon the line
11 extension agreements which are governed by specific
12 language in PSNH's tariff. We're not aware of any issues
13 with our customers surrounding private property
14 construction charges; however, we recognize that there may
15 be confusion when there are more than one company
16 involved.

17 Providing space for multiple
18 attachments, including space for municipal services, and
19 authorized licensees, it is a fundamental requirement of
20 pole ownership. We strive to work in a cooperative
21 fashion with municipalities and cable companies. We're
22 not aware of any issues related to our service levels in
23 this area of concern.

24 PSNH looks forward to participating in

1 this docket in the hopes that we can identify additional
2 opportunities to improve on our current service levels to
3 our customers. We're ready to respond to questions from
4 the Staff and the other intervenors and to work towards a
5 mutually acceptable resolution of the issues.

6 I'd like to add one point. On November
7 7, 2005, segTEL filed a Motion for Clarification of Scope.
8 PSNH is concerned that this motion may unnecessarily
9 expand the scope of the proceeding where the parties
10 already have a great deal to accomplish. The motion
11 suggests that this Commission should investigate matters
12 that are more properly within the purview of the Federal
13 Communications Commission. Although each state commission
14 may exercise jurisdiction over pole attachments, they must
15 do so by certifying to the FCC that the state has
16 established the same regulations and just and reasonable
17 cost allocation for the pole attachments. Up until this
18 time, the Commission has not seen -- the New Hampshire
19 Commission has not seen fit to exercise such jurisdiction
20 and make the necessary certification to the FCC.

21 PSNH believes that segTEL's motion asks
22 this Commission to intrude on the FCC's arena or begs the
23 question of whether the Commission ought to assert
24 jurisdiction. PSNH does not support such a change and

1 respectfully objects to the segTEL motion.

2 Thank you.

3 **CHAIRMAN GETZ:** Thank you. And, what
4 I'll do, when I end with the mandatory parties, I'll give
5 an opportunity for anybody else who wants to respond to
6 Mr. Katz's objection on scope, and also give the
7 opportunity, if anyone has an objection to any of the
8 Petitions to Intervene. And, National Grid.

9 **MR. OWYANG:** Thank you, Mr. Chairman,
10 Commissioners Harrington and Morrison. My name is Colin
11 Owyang, on behalf of National Grid. We look forward to
12 working together with the Commission, the Commission
13 staff, and the other parties, to explore the issues raised
14 so far by the Commission and the other matters as deemed
15 appropriate by the Commission. We also look forward to
16 that cooperative working relationship and exploring
17 resolution of all these issues in a way that recognizes
18 the varied and unique interests of all the affected
19 parties.

20 With respect to the Motions to
21 Intervene, we do not oppose any of them. But, however,
22 like PSNH, we do have a reservation concerning segTEL's
23 motion regarding the scope. We would defer to the
24 Commission on the proper determination of scope of this

1 proceeding, and take no position otherwise.

2 **CHAIRMAN GETZ:** Thank you. Unitil.

3 **MR. EPLER:** Thank you, Mr. Chairman,
4 Commissioners. My name is Gary Epler, Senior Counsel for
5 Unitil Service Corp., appearing on behalf of Unitil Energy
6 Systems, Inc. And, with me today are Tom Meissner, Senior
7 Vice President and Chief Operating Officer of Unitil
8 Corporation, and Ray LeTourneau, Director of Operations.

9 As was stated briefly by counsel for
10 PSNH, from Unitil's perspective, the items that are raised
11 in the order of notice that the Commission issued are very
12 much either directly involved in or touch upon the Joint
13 Ownership Agreements that exist between the electric
14 utility companies and the telephone utility companies, and
15 lay out how the joint pole plant is to be maintained,
16 acquired, operated, and so on, and how licenses are to be
17 applied for, and then lays out more particularly in the
18 Inter-company Operating Procedures exactly the procedures
19 by which the lines are maintained and issues are
20 addressed.

21 The Joint Ownership Agreements between
22 the electric and the telephone companies have existed for
23 many, many years. The agreements have historically
24 allowed work to be divided evenly and equitably between

1 the companies, and provided for the sharing of both
2 capital costs and ongoing maintenance obligations. This
3 equitable sharing of the costs and responsibilities of
4 pole ownership benefited the customers of both the
5 electric and the telephones companies.

6 It's our position that the Joint
7 Ownership Agreements and the associated operating
8 procedures were intended to be grounded the principles of
9 mutual advantage, equitable sharing of costs, and the
10 provision of reasonable service levels. These are key
11 principles. To the extent that both parties to the
12 agreement are committed to these principles, they're
13 beneficial to the customers and to the shareholders alike
14 of both utility companies.

15 Unfortunately, we find, however, that
16 the Joint Ownership Agreement between Unitil and Verizon
17 no longer provides the same economic advantage and
18 business advantage to Unitil as in the past. It's our
19 position that costs are no longer being shared equitably
20 under the agreement, and that important maintenance
21 obligations are not being fulfilled.

22 From our standpoint, it's no longer
23 clear that the Joint Operating Agreements fits the
24 business needs of both companies, or that the business

1 circumstances that were the foundation of the agreement in
2 the past exist today. It's also no longer clear that the
3 joint ownership of the poles remains in the public
4 interest.

5 There are two basic bases for this
6 conclusion. One is that the Inter-company Operating
7 Procedures may be outdated, containing inefficient
8 processes that have remained largely unchanged for
9 decades, and were never intended to meet the reality of
10 today's business world. Second point is that the
11 financial benefits and the costs ensuing from the
12 agreements are no longer equitably shared between the
13 parties.

14 Within the context of the Joint
15 Operating Agreements, Unitil has specific concerns in the
16 areas such as emergency response time, pole sets for new
17 customer service requests, pole sets for system upgrades
18 and construction, pole inspections, maintenance, and
19 replacements, sharing of tree trimming costs to maintain
20 line clearances, and a timely relocation and transfers,
21 and whole issue that's been raised and spoken to today of
22 double poles.

23 In short, anything that relates to this
24 sharing of obligations with pole setting replacements and

1 maintenance is of concern to Unitil. Given where we are
2 today, we believe that there are three basic alternatives
3 to address these issues, although there may be others as
4 we'll find out as the docket proceeds. One is to address
5 each of the areas of concern and continue operating under
6 the Joint Ownership Agreement and Inter-company Operating
7 Procedures where such joint ownership is of mutual
8 advantage. Two, transition to a sole ownership model, in
9 which the electric company assumes ownership and custodial
10 responsibility for the poles, while telecommunications
11 companies lease space for attachments according to either
12 FCC or state requirements. Three, terminate the Joint
13 Ownership Agreements and develop a new framework for pole
14 construction and maintenance.

15 Our company has been meeting for over a
16 year with our counterparts at all levels in the Verizon
17 organization. And, so far, these meetings have produced
18 no measurable changes in any of the areas that Unitil has
19 identified as problems. It is our hope that, through this
20 docket, we will either address all of these issues or
21 we'll find a more suitable framework for the pole
22 maintenance and ownership. Thank you.

23 With respect to the motion that was
24 filed by segTEL, to the extent that segTEL is simply

1 asking that the items listed in the order of notice apply
2 both to the electric and to the telephone utilities, we
3 don't have any problem with that. To the extent they're
4 asking more and asking to expand the jurisdiction to touch
5 upon the areas that were referenced by counsel for PSNH,
6 we would hold those same objections. And, we reserve the
7 right to reply, if there is going to be a formal time to
8 reply to that motion.

9 Thank you.

10 **CHAIRMAN GETZ:** Thank you. New
11 Hampshire Electric Cooperative.

12 **MR. DEAN:** Good afternoon, Mr. Chairman
13 and Commissioners. My name is Mark Dean, from the law
14 firm of Devine, Millimet & Branch, on behalf of the New
15 Hampshire Electric Cooperative. The Cooperative wishes to
16 participate in this proceeding constructively, but wishes
17 to do so not as a mandatory party, but as an entity on the
18 service list, participating in informal discovery, but not
19 as a full party to the docket. The Cooperative received
20 the order of notice and the report provided to the
21 Commission by its staff, and looking at the statutory
22 authority cited in the order of notice and the issues
23 raised in the memorandum, has concluded that none of those
24 are jurisdictional with regard to the Cooperative, and,

1 therefore, does not believe that a "mandatory party"
2 status is appropriate for the Cooperative.

3 It could conceivably intervene as a full
4 party intervenor at some point. But, at this stage in the
5 proceeding, having seen what we believe looks like a very
6 broad scope of the proceeding, I guess it's our view that
7 we would prefer to participate, again, as a nonparty, that
8 we would monitor the proceedings, we'd make ourselves
9 available for informal data responses and discovery, we
10 expect to be present at the work sessions or technical
11 sessions. But, unless, in the future, we believe, based
12 upon developments in the docket, that it is imperative
13 from the Cooperative's perspective that it become a full
14 party intervenor, or, along the same lines, that other
15 parties essentially come to that conclusion and convince
16 the Co-op that it should voluntarily join the proceeding
17 as a full party, we respectfully request that the status
18 of "mandatory party", as set forth in the order of notice,
19 should be changed and that the Co-op simply be placed on
20 the service list.

21 **CHAIRMAN GETZ:** Thank you. Mr. Del
22 Vecchio, did you want to respond to Mr. Katz's motion
23 regarding scope?

24 **MR. DEL VECCHIO:** Briefly, Mr. Chairman.

1 Verizon does not object to Mr. Katz's request. I would
2 note, however, that we entirely agree with Mr. Eaton
3 regarding the Commission's jurisdiction and authority. I
4 think the Staff so stated in the report which it provided
5 to you, wherein they stated that the issue of pole --
6 "rates, terms and -- I should say, "the rates, terms and
7 conditions for pole attachments" is not something that the
8 Commission has jurisdiction over, it's something that the
9 FCC has jurisdiction. And, in addition to what Mr. Eaton
10 has stated, I would bring to your attention or remind the
11 Commission that the New England Cable Television
12 Association, in 1985, brought a suit involving the
13 Commission, wherein the Supreme Court in New Hampshire
14 stated that this Commission presently does not have
15 authority in that area.

16 So, we reserve our rights as well. But
17 that said, since the issue is being looked at with respect
18 to telephony, it makes sense to look at it with respect to
19 the electricians.

20 **CHAIRMAN GETZ:** Thank you. Are there
21 any objections to any of the motions to intervene?

22 (No verbal response)

23 **CHAIRMAN GETZ:** Okay. Hearing no
24 objections, finding that all of the intervenors have

1 demonstrated rights, duties, privileges or interests
2 affected by this proceeding, we will grant the motions to
3 intervene.

4 Now, I'll note for the record that we
5 have a letter from a Mr. John Donnell, making comment on
6 this proceeding, that we will enter into our docket book.
7 And, the first name I have on the list to speak as a
8 public comment is Michael DeSilvo.

9 **MR. DESILVIO:** Good afternoon,
10 Commissioners. Thank you for this opportunity to speak
11 today. My name is actually Michael DeSilvio. And, I'm a
12 resident -- or, actually, I should say I'm a homeowner in
13 Exeter, New Hampshire. The reason I'm here, I'm here on
14 -- I'm a Director of Operations for a nonprofit
15 organization whose primary mission is to save historic
16 homes to make them afford -- available for affordable
17 housing. And, currently, I'm involved in a project in
18 Exeter, and the intent is to save a house known as the
19 "Merrill House", which is approximately a 200 year old
20 home. It's a Federal style home. And, the only issue we
21 face right now with saving that home is the temporary
22 removal of wires which are blocking access to public
23 right-of-way.

24 Now, we learned of this opportunity in

1 January of this year. And, in February, I contacted all
2 of the three utility organizations, including Unitil,
3 Comcast and Verizon. And, to date, they have been
4 predominantly obstructionist. And, I have three
5 particular issues I'd like to bring to your attention.

6 The first one is that, being a
7 noncharitable -- a not-for-profit organization, we
8 requested that service be provided as a -- for charity and
9 for public good to save this home. And, we learned
10 through our investigation or our background research that
11 citizens of Exeter are levied a tariff for companies which
12 enjoy a monopoly on services. And, those include
13 approximately, from what I know, for Unitil, is about 1.4
14 cents per kilowatt-hour. And, inquiring into that
15 particular tariff, we were unable to ascertain directly
16 from Unitil, due to "confidentiality", how those monies
17 were being spent in Exeter. And, also, we learned from
18 Verizon that no money has been spent in Exeter towards
19 charitable works or public good.

20 Secondly, another issue is regarding a
21 New Hampshire statute, Chapter 231:182, which allows for
22 the temporary removal of utility wires. Now, it requires
23 me to go to the Town Selectmen and petition the Selectmen
24 to basically enforce our right-of-way and have the utility

1 companies drop or remove their wires temporarily to allow
2 us access to public right-of-way. And, while we have been
3 attempting to have a cooperative relationship with these
4 vendors, they have been, as I said, obstructionist, and we
5 feel it's unfortunate that I have to go to spend
6 additional monies through legal means to enforce and
7 protect my rights.

8 One of the primary issues we face with
9 these companies is that they basically have asked us to
10 write a blank check. Right now, that check includes
11 approximately \$40,000 in charges to move the house a
12 quarter of a mile up the street. And, after paying that
13 in advance, they then will say "well, we perhaps may have
14 additional charges, and we'll let you know once the wires
15 have been dropped and replaced."

16 And, I guess the last issue is, what
17 about my right-of-way, access to public right-of-way?
18 We're trying to do the public good, we're trying to save a
19 home of historic significance, and we're basically getting
20 stonewalled. Right now, it's the last obstruction to us
21 to save this home. And, we ask the Commission to consider
22 those particular issues that I just cited. Thanks for
23 your time.

24 **CHAIRMAN GETZ:** Thank you. Joanna

1 Dowaliby.

2 **MS. DOWALIBY:** Thank you, Mr.
3 Commissioner. I am here on behalf of the City of Dover.
4 And, while the City has not filed a Petition to Intervene,
5 we do have some of the same concerns as other
6 municipalities. That being the timeliness of the
7 transferring of lines from old poles to new poles;
8 timeliness of the removal of the old poles; delay in
9 moving the poles for construction projects that are
10 ongoing within the City of Dover; and also a concern for
11 public safety for our citizens, where we have the older
12 poles that are impeding our City's right-of-way.

13 Thank you.

14 **CHAIRMAN GETZ:** Thank you. My page is
15 ripped. It looks like Willard Dodge?

16 **MR. DODGE:** Mr. Chairman, members of the
17 Commission, I'm not sure if what the story I've got to
18 tell that this is the time and place, but I was asked to
19 come here to reiterate to you folks a problem that I went
20 through in the Town of New Boston on behalf of the
21 Hillsborough County 4-H Foundation and the Hillsborough
22 County Fair. Unfortunately, to do that properly, it's
23 going to take a few minutes. So, I don't know if you want
24 to take that time, or it basically has to do with need for

1 a telephone pole to be set by the company of Verizon.

2 **CHAIRMAN GETZ:** Well, I think it would
3 be helpful if we have a summary.

4 **MR. DODGE:** It's going to be hard to do
5 it in a summary, but I'll try. Because I went through a
6 whole complete summer of total frustration trying to get
7 this done. The bottom line was, because of a safety
8 aspect, some of you may be aware that the State of New
9 Hampshire, as of a electrical problem death I believe in
10 Belknap County a year ago, found out that they needed to
11 pay more attention to the county fairs that take place in
12 the State of New Hampshire. And, that had to do with the
13 safety of overhead wires in relation to carnivals that are
14 at each one of these fairs.

15 I'm on the Board of Directors of the
16 Hillsborough County 4-H Foundation. The Hillsborough
17 County Fair is held on our grounds every year. It has
18 been since I was a little kid, and I'm 65 years old now.
19 Based on the need to remove those overhead wires for
20 safety reasons, we entered into a program to have Public
21 Service come in, relocate telephone -- utility poles on
22 our grounds, and for Verizon, on the public right-of-way
23 to our grounds, to install one pole. I signed the
24 contract and submitted to the company of Verizon on March

1 25th. So, I'm assuming they received it on or about the
2 1st of April. Sent them \$5,000 to place one pole, remove
3 the aerial wires that they had transverse, going across
4 our grounds, and to switch the utility Verizon line from
5 one pole to another pole at the entrance of our grounds.
6 That was all they needed to do.

7 Public service, I sent them 10,900 some
8 odd dollars to do the work they needed to do with -- on
9 our private grounds. They came in in a very good manner,
10 installed I believe it's five poles, and all the related
11 things they needed to do. Unfortunately, we could not
12 complete our project until Verizon set one pole.

13 Through the summer, I was working down
14 there a good part of the summer doing work in relation to
15 getting this job done before the Hillsborough County Fair
16 had to take place in September, the first week of
17 September. I've got to say to this Commission what I went
18 through as an individual, representing my board, shouldn't
19 have to happen to anybody dealing with a monopoly that's
20 supposed to serve the public and what we went through to
21 get there.

22 Up front I was told by many, many, many
23 people, people I know over the years, from the Department
24 of Transportation, construction companies, home builders,

1 they all told me "You will never get this done. You'll
2 never have that Verizon pole set in this year's time."

3 Well, I started making phone calls,
4 talked with Verizon, talked with their engineers. It was
5 understood that this job had to be done either before the
6 4th of July or after the 4th of July, in a timely manner,
7 before the fair. And, the reason before the 4th was
8 because the Town of New Boston utilizes our grounds to
9 hold their annual event on the 4th of July.

10 What was so critical of this is because,
11 once we changed these overhead lines, the related work
12 that had to be done was immense. Now, I realize that is
13 pretty small potatoes compared to what I'm listening to in
14 this room today, but for us it was extremely important,
15 for Hillsborough County it was very important.

16 It got to the point where they wouldn't
17 return my phone calls. I'd leave messages. And, we got
18 to the point where we've got to do something because we
19 needed to send out contracts to vendors, receive monies in
20 anticipation of the fair that we assume was going to take
21 place, not knowing whether or not we were ever going to
22 get this one pole set.

23 Now, for the benefit of this Commission,
24 and anybody else who has ever gone down in the ditches and

1 done this, during this time, I personally, and over the
2 years have done many more, but I set a utility pole by
3 myself, with a backhoe, a shovel, and a tamper in less
4 than 45 minutes. And, for this particular project, I did
5 over nine of them.

6 I think the thing most notable about
7 this whole event was, as we were going through this,
8 trying to get this done, I contacted the Public Utilities
9 Commission, because everybody told me "that's the only way
10 you're ever going to get it done." And, they assured me
11 they would take care of it, and eventually they did. But
12 what happened on a particular day I guess makes, to me,
13 it's very notable what this whole thing was about. I was
14 sitting down there on the ground at quarter of one one
15 afternoon eating my lunch, and I got a call from a member
16 of the Public Utilities Commission, telling me that they
17 had some wonderful news. I said, "Boy, I'm ready for it."
18 Wonderful news was that Verizon was on the job, had been
19 there since early morning, and would have the job done in
20 two days. I had been there since 7:30 that morning, it
21 was now quarter to one, I never saw Verizon.

22 Eventually -- Obviously, they weren't
23 too pleased with that. To try to shorten the story up a
24 little bit, later I did get a call from a Verizon

1 construction foreman. He apologized for not being there,
2 told me his truck broke down. Said "okay, when will you
3 be here?" "I'll be there 8:30 tomorrow morning." "I'll
4 be there waiting." And, I was.

5 Quarter of nine, the phone rings. Now,
6 this is after -- this has been going on for months now, I
7 want you gentlemen to understand. Quarter of nine, the
8 phone rings, said "I'm running a little bit late. I'll be
9 there at 9:00." "No problem, I'll be there." Nine
10 o'clock he does show up. And, I've got to tell you that,
11 from that time on, as long as I had him to work with, we
12 got along fine. So, I said "where are your trucks?"
13 "Well, I don't know." Turned out, he had been working
14 with a Verizon crew out of Rhode Island the day before in
15 the Town of Bedford, and I don't know this, but my
16 assumption is they stayed over, and he finally left, and
17 by 10:30 he found them, brought them back to our grounds.
18 Now, they had one pole to set for me, and they had one
19 pole to set for themselves, because they had a pole that
20 was deteriorated on the public right-of-way. They arrived
21 at 10:30, they left there, now two trucks, two crews, they
22 left there at 2:30 in the afternoon, setting two poles.

23 Now, if you remember, I just told you I
24 can very easily set a pole all by myself, with a backhoe

1 and a shovel, in 45 minutes. So, I said "what about the
2 lines that you've got to swap over?" "Well, we'll do that
3 another day." And, they did come back and do it another
4 day.

5 But, because of this, we had over
6 700 feet of ditching to do with underground work we had to
7 do in preparation for the changeover. It held up our
8 electrical contractor, who couldn't finish his work.
9 Public Service, I've got to tell you, bent over backwards
10 for us. I cannot say enough about them for what they did
11 for us during this period.

12 And, it finally got to the point where
13 we weren't sure if we were going to be able to make this
14 happen, and we learned that Public Service was even going
15 to go to the extent of coming back in, temporarily
16 switching the power over from the old to the new to get us
17 by, which means they were going to have to later come back
18 and redo it again. Fortunately, that didn't happen.
19 After the one pole got set, we needed a drop line from
20 that pole to the house we have at the entrance of our
21 private grounds. And, that's where Verizon was going to
22 be terminated. Didn't come. A few days before the fair I
23 called the supervisor again, said "we've got to have that
24 line for the office for the fair." His answer was "they

1 told me it was already done. I'll take care of it." And,
2 he did. I think it was like the following day the truck
3 shows up, I happened to be down there when he comes in,
4 two trucks show up. They run the line from the utility
5 pole to this house, and then I left, assuming the job was
6 going to be done.

7 Come back the next day, the line is run,
8 they didn't make the connection. I called them back up
9 again. "Why? Supposed to be done?" "We'll send somebody
10 out." And, they did. It turned out the guy that came out
11 a few days later was one of the very people who was there
12 the day they ran the line, and made the connection in a
13 matter of just a very short time.

14 Now, that's a very brief synopsis of
15 what I went through this summer trying to get this done.
16 The thing that became evident to me more than anything, as
17 I talked to numerous different people around the state who
18 have had to deal with Verizon, the nightmare stories that
19 are out there, it's just ashame that it's even happening.
20 And, it was very clear to me a lot of the problem has to
21 do with work ethic. When it takes two crews, two trucks,
22 four hours, to set two telephone poles, that I can do in
23 an hour and a half, there's something wrong with this
24 program. And, again, I don't think anybody should have to

1 go through that, when we have a company that's a monopoly
2 that can't service the public better than that.

3 Thank you for your time.

4 **CHAIRMAN GETZ:** Thank you, Mr. Dodge.
5 Raymond Holland.

6 **MR. HOLLAND:** Raymond Holland,
7 representing Richard Gould from Houston, Texas, I'm a
8 light rural developer in Bethlehem and Franconia. I will
9 be brief, because Willard kind of told pretty much the
10 same story. We started in April -- excuse me, March 25th
11 of 2003, ordering power and telephone poles. Bethlehem is
12 a Verizon maintenance area; Twin Mountain or the Town of
13 Carroll is Public Service. We just finished getting our
14 Verizon poles in Bethlehem last week. After two, and I'm
15 really condensing everything here, and Mr. Gould will
16 submit, he's present and will be submitting some further
17 information, they've lost -- they lost our work orders on
18 two occasions, and it goes on and on. My information is
19 that they have two crews north of Franconia Notch to take
20 care of all of the construction/repair emergencies to be
21 done, new, old, and emergencies. If one person gets sick,
22 you're down to one crew. So, that's about as brief as I
23 can get, but it's been busy.

24 **CHAIRMAN GETZ:** Thank you. Well, let's

1 turn to Mr. Gould, since this is related.

2 **MR. GOULD:** Mr. Chairman, Commissioners,
3 thank you for this forum. I would like to thank the Staff
4 for this forum as well. We have had numerous
5 conversations with Staff about the problem with Verizon.
6 I think it's shameful for Verizon to not to admit anything
7 other than being dilatory in their prosecution of their
8 job as providing the poles in areas where they are the
9 responsible party for providing the poles. Public
10 Service, what's exasperated our problem, we're a thousand
11 -- 2,000 acre development. It spans Carroll and
12 Bethlehem. Unfortunately, Verizon has the pole franchise
13 for Bethlehem. Our entrée to our development is through
14 Bethlehem. Public Service, when requested to put their
15 poles up, did it quickly, smoothly, and we were very
16 pleased.

17 Mr. Holland stated that we started this
18 process in March of '03. The first contact with Verizon
19 was December the 27th, '02. I don't know how to calculate
20 the number of months, but, in the process, we have three
21 homeowners who are building houses up there that have all
22 but threatened lawsuits against me, because I didn't
23 provide them with power. I have agreed to provide them
24 with temporary generators, anything that I can do to be

1 sure that they can get their houses closed in before
2 winter.

3 I don't -- I don't think that I or
4 anybody else has the right to tell Verizon where they
5 ought to go make their money, but all you got to do is
6 pick up a newspaper or a magazine on an airline or listen
7 to their ads on television, when they say "the world's
8 largest broadband access". That's really where they want
9 to make their money. They don't want to make their money
10 providing rural residents in New Hampshire telephone
11 service. It makes them no money, there's no efficiency in
12 it.

13 In the same amount of time that we have
14 been trying to get them to put poles up, so we could get
15 power to our development, they have an application before
16 the FCC, which I have a copy of here, to install 190-foot
17 tall communications tower a tenth of a mile from the
18 entrance of my subdivision. What does that tell you?
19 That's where the money is being made. And, they ought to
20 just admit it.

21 But the system is broke. The system is
22 broke when the primary power provider has to wait on
23 somebody who has no axe to grind, no dog in the fight, to
24 put up poles so they can supply power to residents who

1 need them. It just doesn't make any sense.

2 I don't know whether this Commission
3 knows it, but if you ask for some service for Verizon, and
4 they give you a work order number, if they don't do it in
5 60 days, and you don't call them and ask them why, your
6 work order drops out of the computer. You have to start
7 all over again. That is incredible to me. I don't care
8 whether you're asking for DSL service, I don't care
9 whether your asking for power for a subdivision, and even
10 if you're paying for it, they can give you a work order
11 number, and then drop it out of the computer, and you've
12 got to start all over again. That's happened to us twice.

13 I guess we have a lot of people here
14 that want to talk about this situation. But, I mean, this
15 -- something's got to be done. And, I'm from Texas, you
16 can obviously tell I'm not from here, I don't -- I don't
17 propose to know what's good for New Hampshire, but I know
18 what's good for the public, and this isn't good for the
19 public.

20 May I throw this in the trash? I also
21 have some letters from parties who have communicated with
22 Staff about my problem that I'd like to submit either into
23 evidence or to give to them, so they can be sure that you
24 all have them on the record at some point. These are

1 people that have talked to the Staff about this problem
2 and who are associated with me, and I assume were some
3 part and parcel of the reason why they were asked to be
4 here, but could not. So, if I could give this to Staff or
5 give them to the Committee.

6 **CHAIRMAN GETZ:** Give them to Staff and
7 we'll make sure they get entered in the docket book in
8 this proceeding.

9 **MR. GOULD:** I thank you for your time.

10 **CHAIRMAN GETZ:** Thank you. Susan and
11 Gordon Cunningham.

12 **MS. CUNNINGHAM:** Thank you for having us
13 today. We're in the same situation it seems as a lot of
14 other people. Just to briefly, again, it would take way
15 too much time to go into everything that happened to us,
16 but we are consumers. We were building a house this
17 summer, and we called about a month before our house was
18 going to be completed, we called Public Service to get our
19 electricity. It was at that time that we were told, while
20 they will run the wires and they will be the ones hooking
21 it up, they cannot install the pole, it has to be Verizon.
22 So, that started our, I guess, nightmare into the world of
23 public utilities.

24 It, again, it takes too long to describe

1 everything that happened. But the way that we were
2 treated as consumers we hope that no one ever has to go
3 through. We had months, almost two months of just total
4 -- we would call them every day to find out the status of
5 where our order was. We were always told "We're not sure.
6 We'll call this department. We'll call that department."
7 No one would ever return the phone calls.

8 Our problem was, our house was completed
9 September 8th, and we were supposed to close at that time.
10 Our kids had already started their new school. But, here
11 it was the first part of October, and we still didn't have
12 a pole. So, our house had been done for over a month. We
13 couldn't live there. We were at the point where our kids
14 almost had to be pulled out of school. And, all we needed
15 was two poles. Public Service, I do have to say, was
16 wonderful, when we finally did get the poles, they were
17 there even through the recent flood disasters. And, it
18 just is ashame that we had to wait for Verizon, where
19 Public Service could have done it. They were the ones
20 that ran the wires.

21 Without going into a lot of specifics, I
22 did want to bring up one comment, just to kind of
23 illustrate Verizon's attitude towards us. After dozens of
24 phone calls, we finally reached the point where we had had

1 it and we told them we were going to call the Public
2 Utilities Commission. At that point, the lady on the
3 phone, and I quote, told me "Go ahead. We have two weeks
4 to respond, so it won't do you any good." It's just,
5 people should not be treated like we were treated. And,
6 it's not right. And, we hope, with our coming today,
7 there's a lot of other horror stories out there too, we
8 just hope that something can be done so people can get
9 what they need to and be treated with dignity and respect.

10 Thank you.

11 **CHAIRMAN GETZ:** Thank you. Ronald Cote.

12 **MR. COTE:** How you doing? Thank you for
13 seeing me. I was asked to come here by the PUC. I just
14 recently had the same horror story I think that everybody
15 seems to have. I was doing a job for the Diocese in
16 Manchester, Mount Calvary Cemetery, to put the brand-new
17 sprinkler system in, to power them off of Black Brook, for
18 the entire cemetery sprinkler system. That job started
19 September of '04. Filed for poles, because we were
20 putting in a 48277 line, they told me that the pole on the
21 street, on the Goffstown Road, had to be installed with a
22 taller pole, so they could cross the road with the 48277.
23 I also needed a pole set on the property. Public Service
24 said they could handle the pole on the property, since it

1 was private property. In October, a month later, the pole
2 on the property was set. By November, all our underground
3 900 feet conduit, piping, pump house, and everything was
4 installed, inspection was completed, and then we waited,
5 and waited, and waited.

6 Thirteen months later, I called the PUC,
7 after just not getting any calls back from Verizon at all.
8 I got a list of about seven different numbers, I'd leave a
9 message every day. And, called the PUC, and, ironically,
10 all seven people called me the same day and said "Oh,
11 we're just getting back to you." So that I appreciate the
12 PUC expediting this. Did get a call back from a member of
13 the PUC afterwards saying "I've got good news for you.
14 Your pole will be set next Monday." And, I said, "Well, I
15 got better news for you. It was set today." And, he says
16 "Well, I should have known that. Could you come to this
17 meeting." That's it.

18 **CHAIRMAN GETZ:** Thank you. Other public
19 comments from anyone here today? Representative.

20 **REP. CAMPBELL:** I'm Representative
21 Campbell. And, I'm sympathetic to the stories that I
22 hear. But I'm also here today, I think, just to reiterate
23 the points that have been made. As a legislator, I don't
24 make a great deal of money. So, I have another hobby,

1 it's called "real estate development". Been doing it for
2 about five years. The nightmare stories that you've heard
3 from all these people, whether it was a guy from a fair or
4 a person with one house, I live over and over and over and
5 over again. I'm currently waiting on two poles that were
6 to be set for poles that were in middle of roads. And,
7 it's likely that I may miss my paving season on both of
8 those subdivisions. This will impact the employment for
9 potentially 50 employees in my company. Could impact my
10 success as a business person here in New Hampshire. And,
11 I feel obligated to disclose that maybe today I'm here
12 just as a consumer.

13 We've heard the horror stories of
14 Verizon not being able to set poles. Ladies and
15 gentlemen, that is just the beginning. Once your pole is
16 set, you then can finally run your underground conduit,
17 like most new subdivisions are, and run it up to the pole.
18 You then have to fight with them to run the primary
19 service for the phone lines in the underground conduit;
20 that can take months. A Verizon representative told me
21 they would not even run that service until there was a
22 consumer who called for their phone service.

23 I had an elderly couple wait over three
24 months to get phone services; and, of course, being mad at

1 me. They told me to call Verizon and order a fake phone
2 service, so that they could send a crew out to not be able
3 to run from the house to the road, to find out that they
4 never put the phone service in the road. They have told
5 me that the way I could get their system to work was to
6 call them up and lie to them. That is not something I'm
7 comfortable doing. They told me that my pole would be set
8 on a Tuesday; they just didn't tell me which one.

9 I don't have 17 Tuesdays to wait. I
10 can't afford to let this corporation continue to ruin my
11 business, my reputation in the community, and my very
12 livelihood. They should not be allowed to set poles any
13 longer. It is that simple. You talk about the gentleman
14 who can set a pole in 45 minutes himself. My company can
15 certainly set poles. I can make a phone call to a
16 subcontractor in my hometown and have a pole set just
17 about anywhere in New Hampshire in a matter of hours, not
18 weeks, not months, not days. They have the physical
19 capability of doing it.

20 What I'm offering you, sir, is the
21 solution. The solution is that, in order to keep the ball
22 rolling, the first hiccup should not be the pole set. You
23 should be able to get the pole set when the stake goes in
24 the ground and the work order is created, and Randy Lyons

1 [sic] from Verizon has cleared it off his desk, and no
2 matter how many more times you call them, they're not
3 going to get out there and do it any sooner.

4 I was very patient. I waited years
5 before I called the PUC. And, I only recently did it. I
6 didn't know that that was part of the process, apparently,
7 to get your pole set, was eventually call the PUC and then
8 Verizon will do their job. I don't think that's the way
9 it should work. I think that for a Verizon representative
10 to think for a second that this problem was being
11 overstated, I think this problem is being understated. I
12 think, for every person that's not here in this room,
13 there's ten other people that have had the same problem
14 and don't know that they can come to the PUC and express
15 those concerns.

16 Now, finally, after calling the PUC, we
17 have a pole set. Thus starts the dilemma of "who goes
18 first, the cable company, the power company, or Verizon,
19 with moving the wires?" The problem doesn't end there.
20 Because then the fingers get pointed, "well, I got to wait
21 for this guy to do this, and I need a brace for that."
22 And, the same guy that set the pole comes back and does
23 the wire. It is horrible. I can't imagine it being any
24 worse, gentlemen. We need help. We need you to regulate

1 the industry, to allow someone else to do that job, if
2 they can't do it.

3 I am impressed with Public Service. I
4 think they're easier to deal with. I think they're more
5 responsive. But I wouldn't let them off the hook. As a
6 guy who builds about 40 houses a year, usually in the
7 affordable price market, we're moving pretty quickly.
8 We'll order for a meter to be set, and sometimes it's two
9 or three weeks before a house meter can be set. It's not
10 nearly as problematic as the pole and the Verizon issues,
11 but I do have people waiting on a simple meter being set
12 on a house after a service has been cleared. For
13 instance, just this morning, we had Code Enforcement in
14 one of the local towns clear a meter to be set, put a
15 sticker on it. We then have to call Public Service and
16 say "okay, the meter can be set." Then, a representative
17 from Public Service has to come out, look at it, and say
18 "Gee, I guess it's okay." And, then, he'll send an order
19 over to another department at Public Service that will
20 finally maybe schedule it to come set a meter.

21 There's someone that's supposed to move
22 into that house on the 21st, here it is the 10th. Do you
23 guys want to bet me that those people aren't able to move
24 into their house, will lose their financing rate, may even

1 lose the deal, the ability to have that affordable house,
2 all because we can't get a simple meter set within 11
3 days? I don't think it's unreasonable to expect a little
4 bit better service even from Public Service.

5 And, my point is that a licensed Master
6 Electrician installed that service, a licensed Master
7 Electrician did all the wiring in the entire house. And,
8 I know there's issues that I don't understand with the
9 regulatory committee. But what I'm saying is, for that
10 electrician to install a meter is not a big deal, in my
11 opinion. I would like the Committee -- the Commission to
12 think about some of the ways that some of these
13 responsibilities, I mean, I'm paying for it anyways, why
14 can't I pay somebody else to do it, when I'm cutting
15 checks routinely for thousands and thousands of dollars to
16 Verizon and thousands and thousands of dollars to Public
17 Service, and then I still can't get it done?

18 I won't pay a vendor until they do the
19 job. Any other vendor that works for me doesn't get a
20 check until I see something happening. Why am I paying
21 for stuff ahead time, with no expectation of when they're
22 going to show up? Those are some of the problems. It's
23 more than just the pole set. It's a complete lack of
24 customer service. It's a complete -- I mean, I hate to

1 say it, I feel melodramatic, it's a complete lack of
2 integrity. I expect, when I have a business relationship,
3 that the person I'm doing business with to have some level
4 of integrity on the other side. I don't feel that way
5 with Verizon.

6 We really need your help. Please take
7 these matters seriously. And, if there's changes that we
8 can make in the regulatory process or if there's changes
9 that you need the Legislature to introduce, to make it
10 clear that, if I say "You're going to be there on the 26th
11 of September, fine. If you don't show up, give me the
12 right to set the pole."

13 We had one situation where we set a
14 sauna tube, where we knew the pole was going to be, so
15 that we could do our thousand feet of conduit. And, when
16 they saw the sauna tube and hole drilled, they actually
17 told me they wouldn't set the pole, because we drilled a
18 hole there, so that we'd know that we could have the
19 conduit there. And, I got in a big fight with the
20 subcontractor that was doing the work. That is a simple
21 solution. Meaning, when you have to set conduit to get
22 the work done, the pole is not in, so you can't do your
23 90s to come up to the pole. If we were allowed to just
24 drill the hole, put a sauna tube, which is the size of the

1 telephone pole, so you can preserve the integrity of that
2 hole, then you could run your underground conduit and keep
3 the job moving. Even that, Verizon, I mean, had a real
4 problem with that. And, they eventually set the pole, but
5 it wasn't until I had to invest hours and hours of
6 convincing them that it was okay to set the pole. I
7 shouldn't have to do that. We shouldn't have to make
8 9,000 phone calls to set one telephone pole. It's not
9 right, it's wrong.

10 Thank you.

11 **CHAIRMAN GETZ:** Is there anyone else
12 this afternoon?

13 **MR. KATZ:** May I be allowed to respond
14 to the objections that the mandatory parties brought to
15 segTEL's motion?

16 **CHAIRMAN GETZ:** Please.

17 **MR. KATZ:** Just responding to Attorneys
18 Eaton and Epler. Is this on right? Okay. SegTEL's
19 motion did not seek to redraw the statutory boundaries of
20 authority between the FCC and the Commission. Simply,
21 this is a generic docket that was opened. And, in the
22 letter from Staff, prior to the order of notice, several
23 of the issues that were brought up were barriers to entry
24 and CLEC pole attachments. The electric companies are

1 parties to our pole attachment agreements, our three-party
2 pole attachment agreements, as are Verizon. And, the
3 concern that segTEL has is, by not making both the
4 investigation with regards to this involve the electric
5 companies, as well as Verizon, there just will not be
6 parity in the investigation, and it will potentially stunt
7 the effectiveness of our ability to convey our
8 experiences. And, I hope, within the confines of what
9 we're seeking to do, simply by involving all the parties
10 to our pole attachment agreements, I can obtain the
11 concurrence of the electric companies to allow that
12 expansion.

13 Thank you.

14 **CHAIRMAN GETZ:** Thank you. Is there
15 anything else this afternoon?

16 (No verbal response)

17 **CHAIRMAN GETZ:** Okay. Then, hearing
18 nothing, we will close this prehearing conference, and we
19 will await a recommendation from our staff on the next
20 steps in this proceeding. Thank you very much.

21 **(Prehearing conference ended at 3:16**
22 **p.m.)**