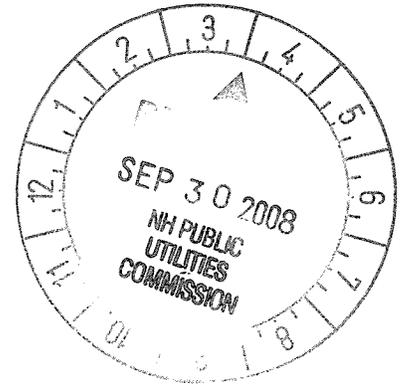


September 30, 2008

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



Re: DRM 08-091 Rulemaking for Underground Utility Damage Prevention Program

Dear Ms. Howland:

This will letter will constitute written comments filed on behalf of Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE ("FairPoint") with respect to the underground utility damage prevention program rules proposed for adoption in this docket. Please note that the relevant sections of the proposed rules at issue have been copied below, with FairPoint's comments to that section of the proposed rule following immediately thereafter.

FairPoint's specific comments on the rules as proposed are as follows:

1. Proposed Rule 804.03 Training of Locators. (a) Locators shall be trained in accordance with National Utility Locating Contractors Association (NULCA) standards or equivalent.

**FairPoint's Comment:** FairPoint recommends that this proposed regulation be stricken in its entirety. Dictating standards of training applicable to a variety of public utilities is not in the public interest. Moreover, the use of the word "equivalent" in this proposed regulation is vague. Public utilities should be free to train their respective personnel as each entity deems in its own best interests and the interests of their respective customers. FairPoint also notes that such regulation could lead to an unintended requirement that public utilities police independent contractors that are not regulated by the Public Utilities Commission.

2. Proposed Rule 806.03 Identification. (c) An operator shall identify with markings any changes in direction or terminations occurring within the immediate area of the proposed excavation with arrows or other appropriate indicators.

**FairPoint's Comment:** FairPoint notes that the operator's marker or the locator is currently providing color-coded markings adopted within national standards, and also identifies utility by company name. Adding additional markings will cause confusion for personnel operating heavy equipment, including excavators. Such confusion could lead to more accidents than otherwise encountered with the present marking standards. FairPoint recommends retaining current language for proposed rule 806.03(a) and (b) and eliminating proposed rule 806.03(c) in its entirety.

In addition, FairPoint notes that the New Hampshire alliance of Managing Underground Safety Training (a/k/a "MUST-NH") recognizes that the current national marking standards are color coded and each utility identified by initializing the company name. The width of the facility is indicated by current marking standards, inclusive of the tolerance zone. Additional markings only would add confusion on the part of personnel operating heavy equipment, including excavators. FairPoint understands that MUST-NH recommends retaining the current language for rule 806.03 (a) and (b) with no insertion of additional requirements.

3. Proposed Rule 806.05 Marking Certain Newly Installed Underground Facilities. (a) Upon completing the installation of new underground facilities within an area that has been subject to excavator notification and premarking pursuant to Puc. 805.01, an operator shall make reasonable efforts to communicate the existence of such facilities if they are covered with soil or other materials that impairs their visibility.

(b) For purposes of (a) above, reasonable efforts shall include: (1) Marking the tolerance zone in accordance with 806.01, 806.02, 806.03, and 806.04;

(2) Contacting the excavator with information regarding the presence of the newly constructed facilities, or

(3) Leaving a tag or marker clearly indicating the presence of the newly constructed facilities with contact information.

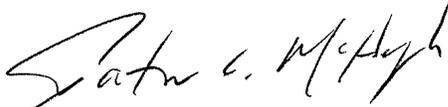
**FairPoint's Comment:** FairPoint suggests striking this proposed rule in its entirety and recommends addressing the intent of this proposed rule through contractor safety training as currently administered by the MUST-NH. FairPoint believes that MUST-NH

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recognizes the complexity of the current laws holding accountability on both the part of the operator and the excavator for public safety. The record does not substantiate that the adoption of a regulation with an even greater level of complexity would equate to a advancement in safety. FairPoint understands that MUST-NH recommends striking proposed rule 806.05 in its entirety, and addressing the intent of this proposed rule through continued focus on training and education of the excavation community.

FairPoint appreciates the opportunity to participate in the rulemaking process, through the filing of these comments and the participation in continued technical sessions with Staff. We would be pleased to discuss these comments with any of the participants in the current rulemaking process.

Very truly yours,



Frederick J. Coolbroth  
Patrick C. McHugh

FJC:kaa