

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DOCKET NO. DT 10-183

**DIRECT TESTIMONY
OF
KATH MULLHOLAND**

**ON BEHALF OF
segTEL, INC.**

October 22, 2010

NHPUC OCT25/10 AM 8:51

1 Q. Please state your name, place of employment and position.

2 A. My name is Kath Mullholand. I am currently employed by segTEL, Inc. (segTEL) as
3 Director of Operations at 325 Mount Support Road in Lebanon, NH.

4 Q. What are your duties at segTEL relevant to this proceeding?

5 A. At segTEL, I have broad responsibility for customer ordering, provisioning and
6 billing. I am segTEL's regulatory liaison. In my official capacity, I submitted the
7 application of segTEL for statewide CLEC authority.

8 Q. Please summarize why you are providing testimony.

9 A. This docket concerns whether the Telecommunications Act of 1996 preempts the
10 State of New Hampshire from enforcing statutes that have the effect of creating a
11 barrier to entry. My testimony goes to the effect of a time-consuming regulatory
12 process on the development of competition.

13 Q. Are you familiar with the other telecommunications companies that have sought
14 registration in an incumbent territory under the terms of RSA 374:22-g?

15 A. Yes, to the extent that their applications and Commission action on those applications
16 is on the Commission's website, or that segTEL has requested intervention in the
17 relevant dockets.

18 Q. What is the difference between segTEL and other competitive carriers that are parties
19 to this docket?

20 A. The other parties, which are here represented by New England Cable and Telephone
21 Association (NECTA), are providers of cable television service, while segTEL is a
22 facilities-based telecommunications provider. segTEL is not a cable television
23 company or an affiliate of a cable television company.

1 Q. Why is that important?

2 A. The cable television companies will, I believe, provide testimony that explains the
3 effects of delay on competitive market entry from an economic standpoint. However,
4 for a CLEC such as segTEL, whatever delay in time to market the NECTA entities
5 experience is minimal compared to what a facilities-based CLEC such as segTEL
6 would experience.

7 Q. Please explain.

8 A. To the best of my knowledge, the NECTA companies are successor entities to the
9 original cable television providers in New Hampshire, who have been providing cable
10 television (CATV) services since sometime in the mid-twentieth century. Such
11 companies began to construct and substantially completed their original networks
12 prior to 1996 through cable television franchise agreements with local franchising
13 authorities (LFAs). In addition, throughout the past thirty-five years or more, they
14 have had the ability to establish and build three critical elements of success: (a) brand
15 name; (b) network coverage; and (c) market share.

16 As a result, when a NECTA company seeks to provide competitive
17 telecommunications service in a rural telephone company region, they already have
18 the wires on the poles and established connections to many of the customers homes
19 already in place to provide service. Therefore, even though the hearing and notice
20 procedure is a lengthy and burdensome barrier to entry, once approval is received the
21 remaining time to market can be accomplished relatively quickly, with the knowledge
22 that there is already a substantial market in place to up-sell. In short, much of the
23 physical plant needed to provide telephone service exists regardless of the approval
24 process.

25 Q. And that's not the case with CLECs like segTEL?

1 A. No, it is not. We cannot allocate funding to proactively build facilities in an area
2 when we cannot show when or even if we would be allowed to operate in that area.
3 For that reason, we would have to prospectively go through a hearing and approval
4 process just to determine if we could provide services. On the day that we received
5 our approval, we would still have no brand name, no network reach, and no market
6 power. The date of approval would just be the start of the process to be able to offer
7 service.

8 Q. What would that process involve for a CLEC?

9 A. Depending on the CLEC's particular business strategy, one possible entry strategy
10 would be to (a) make a bona fide request (BFR) process for access to unbundled
11 network elements (UNEs), (b) a request for an interconnection agreement, (c) a
12 proceeding to determine what (if any) unbundled network elements would be
13 provided, and (d) a pricing docket to determine rates for UNEs. With Verizon, who
14 acknowledged its obligation to do each of these things without CLEC prodding, and
15 who was doing these things simultaneously in several states, the process at a
16 minimum took many months.

17 Q. What is your best estimate of how long it takes a CLEC to establish a new market
18 after all of these components are in place?

19 A. Using segTEL's recent experience as an example, opening a new market in FairPoint
20 territory, as an already approved CLEC with established agreements, tariffs, and
21 systems, recently took eighteen months from application to the first customer turn-up.

22 Q. Are there other entry strategies?

23 A. Yes. Another entry strategy would be for a CLEC to operate exclusively on its own
24 facilities. In this event, assuming adequate capitalization and planning, the CLEC
25 would have to (a) request and successfully negotiate a pole attachment agreement

1 with both the incumbent and the electric utility, (b) make application to attach to for
2 poles, (c) wait for make-ready to be completed, (d) receive licenses, (e) construct our
3 network, and (f) market services and activate customers.

4 Q. How long does it take to build a facilities-based network in New Hampshire?

5 A. In segTEL's experience, with agreements already in place, it typically takes a full
6 year to complete a very basic expansion of the network.

7 Q. Is this the end of your testimony?

8 A. Yes.