

DT 10-239

THE STATE OF NEW HAMPSHIRE

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September 30, 2011

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03303

Re: *DT 10-239, Comcast Maine/New Hampshire, Inc. Water Crossings
Status Report*

Dear Ms. Howland:

By Secretarial Letter issued August 5, 2011 in the above-referenced docket, the Commission directed Comcast and Staff to collaborate on the issues raised in a Motion filed by Comcast on July 5, 2011, and to report back to the Commission with a status report no later than October 1, 2011. Pursuant to that directive, Staff and Comcast submit the following report.

1) Comcast and Staff met at the Commission on August 18, 2011, and subsequently discussed the issues raised in this proceeding through numerous phone calls and email exchanges. In response to a request from Staff, Comcast provided Staff with a written summary of the method by which it undertook a comprehensive review and survey of its existing water body crossings in its New Hampshire cable-franchised territories, and a list of the 380 water crossing locations. Comcast and Staff have agreed that as part of a proposed settlement, Comcast will supplement this information with more detailed information about each water body crossing, *i.e.*, the name of the water body and the location on the water body where the crossing exists.

2) Comcast and Staff do not agree on the legal issues raised in Comcast's Motion, *i.e.*, that the Commission's licensing authority under RSA 371:17 does not apply to cable providers who receive franchises from municipalities under RSA 53-C pursuant to federal law under the Cable Communications Policy Act of 1984. However, rather than litigating that issue at this time, Comcast and Staff have agreed as part of a proposed settlement that a reasonable resolution of the 380 existing crossings at issue

would be to seek a single, general license applicable to all existing crossings included in the list provided by Comcast.

3) Comcast and Staff have agreed to collaborate on developing an appropriate process for the filing and review of such a petition, including agreement on additional information required to support a petition. Comcast and Staff have also agreed that a petition filed by Comcast for such licensure would be made without conceding the Commission's authority to require such a filing and without prejudicing Comcast's right to seek a declaratory ruling in the future on the legal issue of whether the Commission has authority under RSA 371:17 over a cable provider.

4) Comcast and Staff propose to reach a settlement agreement that will resolve the licensing issues raised in this proceeding, but will avoid litigation of the legal matters at this time. The parties will continue to discuss the issues reflected above with the intention of reaching a settlement agreement that will be filed with the Commission prior to December 31, 2011.

Thank you for your attention to this matter. Please do not hesitate to contact me if you should have any questions.

Sincerely,



Lynn Fabrizio
Staff Attorney

cc: Stacey Parker, Comcast
Susan Geiger, Orr & Reno
Kate Bailey, Director, Telecommunications Division
Randy Knepper, Director, Safety & Security Division