

Stakeholder Review of Assessment Practices

NEW HAMPSHIRE TELEPHONE ASSOCIATION¹
COMMENTS ON STAFF STRAW PROPOSAL

Policy Option

STAFF PROPOSAL: A minimum assessment of \$1,000 on all telephone utilities should be established.

NHTA COMMENT:

The New Hampshire Telephone Association (“NHTA”) agrees that there is a minimum and absolute financial burden imposed by every registered utility on the New Hampshire Public Utilities Commission (the “Commission”) and the Office of Consumer Advocate (“OCA”) to monitor the utility, maintain records for that utility, and to stand ready to address any issues which that utility may present, even if that utility never avails itself of the Commission’s services. As NHTA member Northern New England Telephone Operations LLC (“FairPoint”) explained in its Response to the Staff’s Informational Requests, for-profit entities (or non-profit entities seeking some type of gain or advantage) that use the Commission’s regulatory processes should be required to fund the Commission’s expenses. In particular, NHTA agrees with PSNH, which in its Response relates how in recent years competitive suppliers of gas and electricity have used a significant portion of the Commission’s resources in registering with the Commission, petitioning the Commission to resolve complaints, and participating in other Commission proceedings as businesses claiming that they may be substantially affected by the work of the Commission. Considering that these entities avail themselves of the protections and processes of the Commission, and that they do so in essentially the same manner as public utilities, these entities should be required to fund the Commission’s expenses.

Furthermore, the requirement to pay a minimum but non-trivial yearly fee to participate in the New Hampshire market will motivate any inactive registrants to relinquish their authority, thus reducing the administrative burden on the Commission and other market participants and providing a more accurate picture of competition in the state. NHTA therefore supports a minimum assessment of \$1,000 on all utilities, and supports legislation to amend or repeal RSA 363-A:5 accordingly.

¹ Bretton Woods Telephone Company, Inc.; Dixville Telephone Company; Dunbarton Telephone Company, Inc.; Granite State Telephone, Inc.; Hollis Telephone Company, Inc.; Kearsarge Telephone Company; Merrimack County Telephone Company; Northern New England Telephone Operations LLC d/b/a FairPoint Communications – NNE; Union Telephone Company; Wilton Telephone Company, Inc.

Rulemaking Options

STAFF PROPOSAL: Electric and gas utilities should recover assessment costs through distribution rates.

NHTA COMMENT:

NHTA has no opinion regarding this option.

STAFF PROPOSAL: Registration and renewal fees for competitive gas and electric suppliers (“CEPS”), aggregators, and REC-eligible entities should be raised to cover Commission costs to review, monitor and maintain up-to-date accounts for each registrant, as well as to monitor and enforce compliance with Commission rules.

NHTA COMMENT:

Although NHTA has no direct interest in this option, it supports this option based on the same principles as its supports for a minimum assessment on all telephone utilities, described above.

NHTA ADDITIONAL PROPOSAL: Only gross intrastate revenues should be considered when calculating the assessment.

In addition to the two rulemaking options proposed by Staff, NHTA also believes that the Commission should revise its rules to clarify that only intrastate revenues are considered “gross utility revenue” for purposes of RSA 363-A:2. As FairPoint explained in its Response to the Staff’s Informational Requests, the Commission is preempted from asserting any regulatory authority in regard to interstate services and revenues. This includes interstate telecommunications revenues as well as revenues from deregulated services that NHTA records as interstate special access revenues. Such services are not regulated by any federal or state agency, other than the manner in which revenues of any other non-utility would be regulated. Moreover, as NECTA explained in its Response to the Staff’s Informational Requests, this is consistent with relevant federal case law, in which the federal district court in Oregon invalidated the Oregon commission’s policy of including interstate service revenues in its assessment for the state universal service surcharge. Also, NHTA understood that the Staff and most interested parties to this Docket supported this proposal during the last technical session, held on March 12, 2013.

NHTA ADDITIONAL PROPOSAL: Assessments on Excepted Local Exchange Carriers should not include expenses related to the Office of the Consumer Advocate.

As FairPoint explained in its initial Objection to Utility Assessment in DM 12-276, there is no lawful reason to include the expenses of the OCA in the calculation of the assessment for ELECs. Senate Bill 48 amended the OCA’s enabling legislation, RSA 363:28, so that the OCA has no standing to petition, initiate, appear or intervene in matters pertaining to (among other things) rates, terms or conditions related to services

provided by ELECs to end user customers. That statute states in relevant part (emphasis added):

II. Except as pertains to any end user of an excepted local exchange carrier or services provided to such end user, the consumer advocate shall have the power and duty to petition for, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, and consumer services before any board, commission, agency, court, or regulatory body in which the interests of residential utility consumers are involved and to represent the interests of such residential utility consumers.

Legislative Options

STAFF PROPOSAL: In light of recent legislative developments, telecommunications companies should be assessed 33 percent of gross utility revenues, in a manner analogous to the treatment of rural electric cooperatives for which a certificate of deregulation is on file with the commission. [RSA 363-A:2]

NHTA COMMENT:

NHTA strongly supports this option. It is consistent with the policy underlying the partial exemption for rural electric cooperatives, which the legislature established in 1997 to reflect the reduced burden that deregulated utilities impose on the Commission.

However, NHTA emphasizes that this option should be pursued in conjunction with the option, described above, to restrict assessments only to gross intrastate revenues. Elimination of interstate and non-regulated service based revenues from the assessment calculation, as well as the Commission's charging of a minimum fee to telephone and other utilities, does not require legislation. NHTA requests the Commission make these assessment revisions prior to the issuance of the next annual assessment.

STAFF PROPOSAL: The minimum revenue exemption from assessment should be revised to apply only to water and sewer utilities. [RSA 363-A:5]

NHTA COMMENT:

Rather than revising RSA 363-A:5 to preserve any exemptions for water and sewer utilities, NHTA supports a complete repeal of RSA 363-A:5 based on the same principles as its support for a minimum assessment on all telephone utilities, described above. There is no indication that these utilities do not impose the same minimum burdens on the Commission as other types of utilities do. Indeed, NHTA suggests that further investigation by the Staff may reveal that small community water and sewer utilities tend to present issues that are out of proportion to their size and customer base.

STAFF PROPOSAL: Legislation should be introduced to allocate PUC expenses to the applicant(s) of a site evaluation committee proceeding. [See RSA 162-H:10, V: “The site evaluation committee and counsel for the public are further authorized to assess the applicant for all travel and related expenses associated with the processing of an application under this chapter.”]

NHTA COMMENT:

NHTA supports this option.