

December 18, 2020

Via Electronic Submission

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

**Re: Docket No. DT 20-111: Comcast of Maine/New Hampshire, Inc. Complaint
Petition for Resolution of Dispute and Declaratory Ruling**

Consolidated Communications' Reply to Comcast's Brief of December 11, 2020

Dear Ms. Howland,

On behalf of Consolidated Communications of Northern New England Company, LLC, this will serve as Consolidated's Post-Hearing Reply to the Initial Brief filed on December 11, 2020 (the "Brief"), by Comcast of Maine/New Hampshire, Inc. ("Comcast") in the above captioned Docket. This Reply is submitted in connection with the evidentiary hearing held on Friday, December 4, 2020. As Consolidated Communications believes the Comcast Brief contains nothing new from its Petition (*see* Exh. 1) and Supplement to Petition (*see* Exh. 13), a detailed reply brief is not necessary.

Comcast's Brief argues in part that Consolidated Communications' response to the pole attachment request giving rise to this Docket constitutes a "blanket ban" on access to poles in violation of the Federal Communications Commission's order in *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, DA 20-796 (July 29, 2020). *See* Comcast Brief at ps. 14-15, 23. The word ban, however, means "to forbid (= refuse to allow) something..." *See ex.* Cambridge Dictionary at <https://dictionary.cambridge.org/us/dictionary/english/ban>.

In fact, Consolidated Communications' response and its access policy at issue in the Docket banned nothing. Consolidated Communications afforded Comcast with access to the poles at issue in Belmont. Said access to one pole involved the use of a riser and conduit. Exh. 10, ps. 1-2; *see also* N.H. Admin. R. 1303.01(c) ([t]he owner or owners of the pole shall not deny a requested attachment under subparagraph (b)(1) or (b)(2) above *if* other make-ready work or another alternative can be identified that would accommodate the additional attachment) (emphasis added). In short, Consolidated Communications afforded access via other make-ready or another alternative and Comcast simply refused the access. As noted in one of Consolidated

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Communications' responses to the pole attachment requests: "It is Comcast's refusal to accept Consolidated's reasonable offer to accommodate Comcast's attachment that is creating the stalemate and not the reverse." *Id.* at p. 2. This cannot logically be construed as a Consolidated Communications "denial of access" and does not come close to a so called "blanket ban". If there truly was a Consolidated Communications ban in place for poles similar to the Belmont pole, then this Commission would have been flooded with complaints over the years. The fact that this single complaint came before the Commission since Verizon New England Inc. sold its Northern New England wireline business in 2008 is direct evidence that no such ban exists.

What should not be lost on this Commission is that Comcast's position is inconsistent with many of its own past practices. When reviewing Comcast's refusal to accept a shared riser and conduit, Consolidated Communications pointed out that:

Comcast is forced to incur the expense regardless of the ownership, so it is hard to understand the refusal on Comcast's part. The sole reason provided for requiring its own conduit is inconsistent with Comcast's practices in New Hampshire. Comcast claims to be concerned about cable damage, *however, Comcast is in Consolidated's shared conduit system in many parts of New Hampshire.* Furthermore, infrastructure sharing is the foundation on which state and federal pole attachment (including conduit) policy is based. In fact, the 1300 rules which Comcast's cites, are borne out of a policy desire that the rights of all attachers are placed above those of any particular property owner.

Exh. 10 at p. 2 (emphasis added). Comcast has not refuted these facts.

Consolidated Communications' response does not qualify as a "ban", blanket or otherwise. Consolidated Communications did not forbid access nor did it refuse access. Consolidated offered to install a shared riser and shared conduit. Consolidated Communications also offered to allow Comcast to place its own conduit and turn it over as a shared conduit to Consolidated as a compromise. Consolidated Communications offered what Comcast had agreed to in the past. Consolidated is [and was] happy to perform the make-ready and provide Comcast access to the pole at issue. *Id.* Therefore, Consolidated Communications did not deny access under N.H. Admin. R. 1303.01(b)(1) or (b)(2), as under Admin. R. 1303.01(c) it offered "...other make-ready work or another alternative ... that would accommodate the additional attachment." Comcast's position to the contrary essentially would relegate N.H. Admin. R. 1303.01(c) to a meaningless rule.

In conclusion, Consolidated Communications respectfully requests that the Commission deny Comcasts requested relief. *See* Comcast's Brief, pgs. 29-30.

Pursuant to your notice dated March 17, 2020, that the Commission temporarily has waived the requirements of Puc. 203.02, paper copies of this correspondence will not be filed.

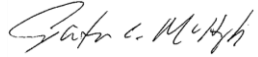
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New Hampshire Public Utilities Commission

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Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick C. McHugh". The signature is written in a cursive style with a large initial "P".

Patrick C. McHugh

On Behalf of Consolidated Communications of Northern New England Company, LLC

Electronic Cc: Service List, Docket DT 20-111