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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DOCKET DE 21-020

IN THE MATTER OF: Eversource Energy and Consolidated Communications
 Joint Petition to Approve Pole Asset Transfer.

DIRECT TESTIMONY

OF

Stephen R. Eckberg
Utility Analyst, New Hampshire Department of Energy

January 31, 2022

1 **Introduction**

2 **Q. Please state your full name?**

3 A. Stephen R. Eckberg

4 **Q. By whom are you employed and what is your business address?**

5 A. I'm employed by the New Hampshire Department of Energy as a Utility Analyst in the
6 Regulatory Support Division. My business address is 21 S. Fruit Street, Suite 10, Concord,
7 NH, 03301.

8 **Q. Please summarize your education and professional work experience.**

9 A. I have a B.S. degree in Meteorology and a M.S. degree in Statistics. I've been employed as a
10 utility analyst since 2007 when I was hired by the New Hampshire Office of Consumer
11 Advocate (OCA). In 2014, I joined the Public Utilities Commission, and in July 2021, I
12 became employed by the newly created Department of Energy. A more complete listing of
13 my experience is included as Attachment SRE-1.

14 **Q. What is the purpose of your testimony in this proceeding?**

15 A. The purpose of my testimony is to provide my recommendation to the Public Utilities
16 Commission (PUC) on the Joint Petition to Approve Pole Asset Transfer filed on February
17 10, 2021 by Public Service Company of New Hampshire d/b/a Eversource Energy
18 ("Eversource") and Consolidated Communications of Northern New England Company,
19 LLC d/b/a Consolidated Communications ("Consolidated").

20 **Q. Please provide a brief description of the transaction proposed in the Joint Petition**
21 **under consideration in this docket.**

22 A. The petitioners, Consolidated and Eversource, propose to transfer the ownership share of
23 certain poles which are currently jointly owned by both petitioners from Consolidated to

1 Eversource so that Eversource will be the sole owner of the poles under consideration.

2 Along with the ownership share of the poles, Eversource would also gain certain license and
3 property rights with respect to the transferred poles including the authority to collect pole
4 attachment fees from third parties as explained in the petition.

5 **Q. What is the number of jointly owned poles that are proposed to be transferred to**
6 **Eversource, to become solely owned by Eversource?**

7 A. The testimony of Mr. Lajoie at Bates 18 states that there are 343,098 jointly owned poles in
8 Eversource's service territory, with each Company owning a 50% interest in the poles, and
9 with Consolidated solely owning approximately 3,844 poles in Eversource's service territory
10 to which Eversource has attached electric facilities. Each of the 343,098 jointly owned poles
11 counts as one-half of a pole which Eversource will acquire which equates to 171,549 pole
12 equivalents. Then, add to that the 3,844 Consolidated solely owned poles to be acquired by
13 Eversource for a grand total of $171,549 + 3,844 = 175,393$ pole equivalents.

14 **Q. Could you state briefly whether you recommend approval of the joint filing made by**
15 **CCI and Eversource?**

16 A. Certainly. I do not recommend the approval of the asset transfer as proposed in the joint
17 petition.

18 **Q. Would you please explain the reason(s) why you do not recommend approval?**

19 A. The primary reason why I do not recommend approval of the pole asset transfer as described
20 in the joint petition is that Eversource ratepayers would be required to pay for costs that
21 Eversource should instead collect from Consolidated. The proposed transaction and
22 associated cost recovery mechanism would result in certain costs being included in

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1 Eversource's rate base following the completion of the proposed transaction which should
2 not be included in rate base.

3 **Q. Would you please provide some more specific details on the costs you refer to?**

4 A. The testimony of Mr. Lajoie at Bates 18, Lines 14-19 explains, "The net purchase price of
5 the Transferred Poles is BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL.

6 The net purchase price is comprised of a gross purchase price of BEGIN CONFIDENTIAL
7 [REDACTED] END CONFIDENTIAL for the Transferred Poles, reduced by BEGIN

8 [REDACTED] CONFIDENTIAL [REDACTED]
9 [REDACTED] END

10 CONFIDENTIAL." Mr. Lajoie goes on to explain that the agreement also includes a
11 settlement of disputes between the Parties, including vegetation management costs that
12 Consolidated has not paid Eversource since 2018¹. See Testimony of Lajoie at Bates 19,
13 Lines 1-14. Specifically, the Parties have agreed to deduct BEGIN CONFIDENTIAL [REDACTED]
14 [REDACTED] END CONFIDENTIAL from the net purchase price for the Transferred Poles to
15 resolve any disputes between them, including regarding vegetation management costs. As a
16 result of the settlement, Eversource's resulting net payment amount due to Consolidated for
17 the purchase of the Transferred Poles is BEGIN CONFIDENTIAL [REDACTED] END
18 CONFIDENTIAL.

19 **Q. Of the amounts you've described above, what amount does Eversource intend to use as**
20 **the "book value" of the assets it would acquire in the transaction for the purpose of**
21 **calculating its revenue requirement relating to these newly acquired assets?**

¹ At Bates 19 Line 8, Mr. Lajoie states further that "Consolidated has denied liability for such costs."

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1 A. If the plan is approved as filed, Eversource seeks to include the full net purchase amount of
2 BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL as the rate base of the
3 transferred pole assets. This can be seen in the revenue requirement model included with the
4 testimony of Horton and Menard in their Attachment DPH/ELM-1 Page 1 of 1 (Bates 55) at
5 Line 15 of that attachment. Note that the Petitioners have requested that the amount shown
6 there at Line 15 in the model be treated as confidential. Including this full net purchase
7 amount in rate base means it would earn a return at the Company's most recent approved
8 overall pre-tax weighted average cost of capital (WACC) of 6.87% (See Order 26,433 at
9 page 14). As described above, the joint petition makes it clear that this net purchase amount
10 includes a settled amount of BEGIN CONFIDENTIAL [REDACTED] END
11 CONFIDENTIAL which reflects a settlement amount resolving disputes between the two
12 companies, including vegetation management amounts owed by Consolidated to Eversource
13 which have not been paid since the beginning of 2019. *See* Testimony of Lajoie at Bates 19
14 Lines 8-14. On an annual basis, Eversource bills Consolidated for approximately \$7 million
15 of vegetation management, so to the extent Consolidated has not reimbursed Eversource
16 since the beginning of 2019, the reimbursement owed to Eversource continues to rise.² It is
17 my position that the amount reflecting the dispute resolution should not be included in the net
18 book value of the assets for purposes of establishing a revenue requirement related to the
19 acquired assets. In other words, the net purchase amount stated above should not be used as
20 the rate base amount as it includes an amount agreed to by Consolidated and Eversource to
21 resolve disputes and, therefore, does not reflect only the value of the assets themselves.

² Joint Petitioners' Response to Staff 1-006 which is included as Attachment SRE-2.

1 **Q. Do you have an amount that you propose be considered as the Net Book Value (NBV) of**
2 **the Transferred Poles?**

3 A. Yes. The amount that I recommend be used as the NBV for the Transferred Poles should be
4 considered as a maximum allowable amount and that is \$13,382,128. This is the amount that
5 I recommend be used as the “book value” of the approximately 175,393 poles to be acquired
6 by Eversource.

7 **Q. What is the derivation of this value that you recommend as a maximum net book value?**

8 A. I used information provided by Consolidated pursuant to Order 26,534 requiring
9 Consolidated to prepare and provide information responsive to data requests propounded by
10 NECTA. Specifically, data request NECTA 2-019 sought updates as of December 31, 2020
11 to information contained in Fairpoint Communications (NH) 2017 ARMIS report which
12 would be used to establish a net book value of the pole assets. Consolidated provided an
13 initial response to the discovery request which NECTA averred was non-responsive. A
14 discovery dispute ensued which the Commission addressed in its Order 26,534.
15 Consolidated eventually provided the information requested and required. I attach a copy of
16 the updated “ARMIS” report as Attachment SRE-3 to my testimony. Information from that
17 document was used to calculate the value \$13,382,128 which I believe is the maximum
18 amount that Eversource should be allowed to use as the net book value of the pole assets
19 under consideration – regardless of the actual amount that Eversource pays to Consolidated.
20 It is worth noting that the joint petitioners *have not* claimed or requested that any part of the
21 currently proposed net purchase price be considered as “good will” nor that any portion of
22 the net purchase price should be considered in any way other than as rate base for the
23 purpose of determining Eversource’s revenue requirement related to the acquisition. As

1 such, the amount proposed by Eversource to be included in rate base for the transferred poles
2 – the net purchase amount – is too great and the transaction, as proposed, should not be
3 approved.

4 **Q. Have the parties previously entered into any agreements that might inform how**
5 **disputes relating to Vegetation Management expenses might be resolved?**

6 A. Yes. A Joint Use/Ownership Agreement, and related Intercompany Operating Procedures
7 govern the amount of Vegetation Management costs that may be billed by Eversource to
8 Consolidated, amongst other things.³ Intercompany Operating Procedure #2 defines specific
9 avenues for recourse if either party fails to perform their obligations under the agreement,
10 including arbitration. To date, Eversource has not fully engaged these dispute resolution
11 avenues as a means of resolving the dispute.

12 **Q. Are there aspects of the proposed transaction other than the transfer value that you**
13 **wish to comment on?**

14 A. Yes, I would like to comment on the proffered reliability benefits of the transaction and the
15 current state of the joint poles in the Consolidated maintenance area. The Joint Petitioners
16 assert that “[t]he transfer of the Transferred Poles to the sole ownership of Eversource will
17 result in significant reliability and operational benefits,” and then proceed to describe
18 Eversource’s pole inspection and replacement program, as well as its role as a first responder.
19 I must observe that the Intercompany Operating Procedures addresses both issues:

³ Joint Petitioners’ Supplemental Response to Staff 1-008 which is included as Attachment SRE-4. Eversource currently bills Consolidated based on a formula of approximately 20% of scheduled maintenance and mid-cycle trimming costs as defined in sections 1.a and 1.b, 50% of storm trimming costs as defined in section 1.c, and 50% of hazard tree costs as defined in section 1.d. If the proposed transfer were to occur, Consolidated would no longer pay these defined amounts, but instead would pay an attachment fee to Eversource as the full owner of the poles to which Consolidated facilities are attached. As a result of the sale, the per attachment fees for all attachers would likely be significantly reduced, beginning in year three, due to the significant increase in Eversource-owned poles but less significant increase in undepreciated pole plant. *See*, Joint Petitioners’ Response TS1-006 and TS1-009 which are included as Attachments SRE-5 and Attachment SRE-6, respectively.

1 Intercompany Operating Procedure #19 requires Consolidated to meet the same average
2 response time to emergencies in its maintenance area as the target average response time for
3 the electric company in its maintenance area, and Intercompany Operating Procedure #7
4 requires that both Eversource and Consolidated inspect all poles in their maintenance area
5 every 10 years. If Consolidated's emergency response timelines or pole inspection cycles
6 were inconsistent with the Intercompany Operating Procedures, or otherwise below the
7 standards agreed to by both Joint Petitioners within the Intercompany Operating Procedures,
8 then Eversource should have exercised its right to dispute resolution procedures under
9 Intercompany Operating Procedure #2. Rather than exercise this right, Eversource instead
10 appears to have begun setting poles in Consolidated's maintenance area.⁴ Given that
11 Eversource appears to already set poles in Consolidated's maintenance area, rather than
12 waiting for Consolidated to set the poles, it is conceivable that the timing of pole replacement
13 during emergency situations would not be impacted materially by the proposed transaction.

14 **Q. Do you have any further comments regarding Consolidated's pole maintenance and**
15 **inspection?**

16 Yes. Within the Joint Petitioners' testimony, directly after a confidential discussion of the
17 net purchase price of the transferred poles and what that purchase price is reduced by, the
18 Joint Petitioners' note that "In particular, the poles that failed inspection were identified by
19 an outside company in an inspection report dated January 20, 2020, or were earlier
20 designated and tagged as failed inspection." Subsequent discovery related to the 2020 report
21 shows that approximately 73,000 poles within the CCI maintenance area were inspected prior
22 to that report, but that a significant portion of the inspected poles were not actually within the

⁴ Joint Petitioners' Response to Staff to 2-001 which is included as Attachment SRE-7.

1 population of transferred poles and were instead jointly owned by Consolidated with a joint
2 owner other than Eversource.⁵ Neither Eversource nor Consolidated has conducted a full
3 inspection of the transferred poles that are at issue in this proceeding, an inspection which
4 could have focused on the Consolidated maintenance area and determined whether the value
5 of the transferred poles within CCI's maintenance area should be adjusted downward due to
6 an abnormally high reject/failure rate compared to other poles within CCI's territory.⁶ Of the
7 73,000 poles that were inspected, the inspection Company found 2,249 poles that did not
8 pass inspection, recommending that 2,173 poles be restored, and that 76 be replaced.⁷
9 Although Eversource had repaired poles prior to 2015,⁸ due to significant near-term cost
10 savings of doing so,⁹ neither Eversource nor Consolidated repair poles any longer, instead
11 prefer to replace repairable poles, and have modeled full replacement within the revenue
12 requirement forecast associated with this transaction.¹⁰

13 **Q. Your testimony does not support the PUC's approval of the proposed transaction based**
14 **on the cost of the purchase that will be passed on to Eversource customers. Could you**
15 **comment on the Department of Energy's general position of pole ownership by electric**
16 **distribution utilities?**

17 **A.** Yes. In general, the Department believes there could be operational and administrative
18 efficiencies associated with the transfer of jointly-owned poles to the electric distribution
19 utilities. However, such transfers must be based on the purchase of poles at net book value

⁵ Joint Petitioners' Response to DOE 4-001 which is included as Attachment SRE-8.

⁶ Similarly, neither Eversource nor Consolidated conducted a survey of pole attachments to determine the actual number of attachments on the transferred poles.

⁷ Joint Petitioners' Response to Staff 3-004 which is included as Attachment SRE-9.

⁸ Joint Petitioners' Response to DOE 4-007 which is included as Attachment SRE-10.

⁹ Joint Petitioners' Response to Staff 3-008(b), Attachment Q-STAFF 3-008 Conversation Friday Follow up 9 25 2019, page 5

¹⁰ Joint Petitioners' Response to Staff 3-003

1 and should not shift costs unreasonably from the telecommunications company to the electric
2 utility or its customers.

3 **Q. Does that conclude your testimony?**

4 A. Yes.