

**BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 11-248

NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC

**NEW HAMPSHIRE MUNICIPAL ASSOCIATION, LLC'S
PETITION TO INTERVENE AND
OBJECTION TO TARIFF CHANGE**

Now comes the New Hampshire Municipal Association, LLC (“NHMA”), and, pursuant to RSA 541-A:32 and Rule Puc 203.02, petitions the commission for permission to intervene in this docket, and objects to the proposed tariff change. In support of this petition and objection, the petitioner states:

1. NHMA is a non-profit member organization comprising 233 of the 234 cities and towns in New Hampshire.
2. Northern New England Telephone Operations, LLC (“NNETO”) owns poles and/or conduits in most of the cities and towns that are members of NHMA.
3. For years, NHMA’s members have advocated for ending the property tax exemption that telecommunication companies enjoyed for their poles and conduits.
4. In legislative testimony in 2010 and 2011 in support of an extension of the tax exemption, representatives of NNETO told the legislature that if the exemption was removed, NNETO would add a surcharge to its telephone bills and show it as a separate line on the bill.
5. By adding a “municipal property tax surcharge” to its bills, instead of recovering property tax expense through its rates, NNETO is attempting to make customers—and the legislature—believe that it is being subjected to some kind of special municipal tax, instead of the same property tax that everyone pays.

6. The “municipal property tax surcharge” is an effort to blame municipalities for an increase in customer rates, and to build legislative support for reinstating the property tax exemption. Thus, it has a direct impact on NHMA’s members and their taxpayers.

7. This proceeding will give the commission the opportunity to require NNETO to disclose information that municipalities need to assess poles and conduits accurately. Municipalities have been unable to obtain information about poles and pole attachments because NNETO has treated such information as confidential; thus, municipalities are likely to make errors in assessing the poles. Obtaining this information so they can assess the property accurately is in the interest of municipalities as well as consumers. It is already apparent from NNETO’s tariff filing that it intends to claim confidential status for a large amount of information that should be public.

8. In addition, NHMA and most of its members are rate-paying customers of NNETO. Collectively, they use hundreds and probably thousands of telephone lines and thus face the prospect of paying thousands or tens of thousands of dollars annually in “municipal property tax surcharges” under NNETO’s proposal. For that reason alone, their substantial interests will be affected by the proceeding.

9. Even if the commission determines that NNETO’s proposed surcharge is appropriate, NHMA and its members have a substantial interest in ensuring that the surcharge accurately reflects NNETO’s property tax expense.

10. For reasons that will be developed more fully during the course of this proceeding, it is inappropriate for NNETO to recover its property tax expense through a per-line surcharge that is separate from its approved rates.

11. Of more immediate concern, it would be inappropriate for the commission to allow the surcharge on a temporary basis. The property tax exemption for telephone poles and conduits expired on July 1, 2010. NNETO has had seventeen months to request a rate increase. It should not be heard now to complain that it needs immediate relief.

Wherefore, NHMA requests that the Commission grant this Petition to Intervene, deny any temporary rate changes, and grant such other and further relief as may be appropriate.

Dated: December 8, 2011

New Hampshire Municipal Association, LLC

By: 
Cordell A. Johnston
Government Affairs Counsel

Certificate of Service

I hereby certify that I have provided copies of this Petition to Intervene to the named parties set forth on the attached service list as required by the Order of Notice.

Dated: December 8, 2011


Cordell A. Johnston

SERVICE LIST

<p>Kelly Atwood Devine Millimet & Branch, PA 43 North Main Street Concord, NH 03301-4934 katwood@devinemillimet.com</p>	<p>GEORGE E. SANSOUCY GEORGE E. SANSOUCY PE, LLC 279 MAIN ST LANCASTER, NH 03584 gsansoucy@sansoucy.com</p>
<p>Meredith Hatfield Office of Consumer Advocate 21 South Fruit Street, Suite 18 Concord, NH 03301 meredith.a.hatfield@oca.nh.gov</p>	<p>DAN WILL DEVINE MILLIMET & BRANCH, PA 111 AMHERST ST MANCHESTER ,NH 03101 dwill@devinemillimet.com</p>
<p>HARRY N. MALONE DEVINE MILLIMET & BRANCH PA 111 AMHERST ST MANCHESTER, NH 03101 hmalone@devinemillimet.com</p>	<p>CAROLYN COLE SEGTEL INC PO BOX 610 LEBANON, NH 03766 counsel@segtel.com</p>
<p>CHRISTINA MARTIN OFFICE OF CONSUMER ADVOCATE 21 SOUTH FRUIT ST STE 18 CONCORD, NH 03301 christina.martin@oca.nh.gov</p>	<p>KATH MULLHOLAND SEGTEL INC PO BOX 610 LEBANON, NH 03766 kath@segtel.com</p>
<p>PATRICK C. McHUGH FAIRPOINT COMMUNICATIONS INC 900 ELM ST MANCHESTER, NH 03101 pmchugh@fairpoint.com</p>	<p>JEREMY L KATZ SEGTEL INC PO BOX 610 LEBANON NH 03766 jeremy@segtel.com</p>
<p>OCA LITIGATION OCA LITIGATION 21 SOUTH FRUIT ST., STE 18 CONCORD, NH 03301 ocalitigation@oca.nh.gov</p>	