

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Docket No. DT 12-084

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
AND UNITIL ENERGY SYSTEMS, INC.'S MOTION TO
MODIFY THE PROCEDURAL SCHEDULE

Pursuant to NH Code of Admin. Rules Puc §203.07 and §201.05, Public Service Company of New Hampshire (hereinafter "PSNH") and Unitil Energy Systems, Inc. (hereinafter "Unitil") (PSNH and Unitil may be referred to herein collectively as "the Companies") hereby request that the Commission modify the procedural schedules and waive the schedule provisions of Rule Puc 203.09 in Docket DE 12-084 due to the late intervention in this docket by the eleven members of the New Hampshire Telephone Association ("NHTA Members") filed with the Commission on August 20, 2012 (the "NHTA Intervention").

In support of this Motion, the Companies state the following:

1. On May 2, 2012, the Commission issued an Order in the aforementioned docket setting the date of a Prehearing Conference that was held on May 24, 2012 and establishing a date of May 21, 2012 for interventions by interested third parties. The May 2, 2012 Order also established the date of May 24, 2012 as the date by which objections to interventions were to be filed.
2. Petitions to intervene were filed by Unitil, segTel, Inc. ("segTel"), and Comcast Cable Communications Management LLC, et al., ("Comcast"). A motion objecting to the interventions filed by Unitil and segTel was filed by Time Warner Entertainment Company L.P. d/b/a/ Time Warner Cable ("Time Warner") on May 23, 2012. This motion to object was subsequently withdrawn.
3. After the Prehearing Conference, the parties and Commission Staff met in a technical session and agreed to a procedural schedule. The agreed-upon procedural schedule was submitted to the Commission by Staff Letter dated June 4, 2012. On July 3, 2012, the Commission issued an Order in the instant docket that granted the timely filed interventions, set forth the basis for jurisdiction of the Commission on the subject matter, limited the scope of the proceeding, and accepted the procedural schedule proposed by Staff in its June 4, 2012 letter. The procedural schedule adopted is set forth below:

- 6/8/12 — PSNH and Unitil will provide calculations and supporting documentation demonstrating the derivation of the currently effective pole attachment rates
- 7/16/12 or within two weeks of a Commission order asserting jurisdiction over the historic issues, whichever is later, Time Warner and PSNH shall provide a stipulation of facts relating to the historical aspects of the dispute
- 7/20/12 — Testimony from attaching entities
- 8/3/12 — Data requests on attaching entity testimony
- 8/17/12 — Objections and responses to data requests
- 9/14/12 — Testimony from pole owners
- 9/28/12 — Data requests on pole owner testimony
- 10/12/12 — Objections and responses to data requests
- 10/31/12 — Reply testimony of attaching entities
- 11/7/12 — Technical session in lieu of discovery
- 11/14 and 11/15/12 — Hearing on the merits
- 12/21/12—Briefs
- 1/11/13 — Reply briefs (10 page maximum)

4. On August 21, 2012 a Petition for Intervention was filed on behalf of the NHTA Members, and the intervention of these parties was granted on August 31, 2012. The NHTA Intervention states that the NHTA Members are both pole attaching entities and pole owning entities. (See NHTA Intervention at P. 9). Although the NHTA Intervention states in Paragraph 13 that these entities “do not seek to disturb the schedule as set and will accept the record as they find it,” the Companies do not have any assurances that these entities will not seek to submit testimony or submit data requests on the pole owning entities’ testimony in this docket. The position that the NHTA Members may take with regard to the subject matter is unclear from the NHTA Intervention.

5. As of the date of this Motion, testimony from the attaching entities has been submitted, data requests on this testimony have been served, and initial responses to these data requests have been transmitted to the requesting parties. Should the NHTA Members desire to submit testimony as attaching entities, and if such testimony were to be permitted by the Commission, the procedural schedule would need to be adjusted to provide for its submission and subsequent data requests and responses regarding such testimony. Both PSNH and

Unitil, as pole owning entities, would otherwise potentially be prejudiced and their due process rights abrogated in the event that their testimony, which is due on September 14, 2012, is submitted prior to that of the NHTA Members.

6. Even in the event that the NHTA members did not desire to submit testimony in this matter, they would have the opportunity under the present procedural schedule to submit data requests relevant to the pole owning entities' testimony. The Companies would be left without the benefit of any method of questioning the positions of these entities prior to the November 7, 2012 technical session, and would be left with only one week to prepare a case to address these entities prior to the hearings scheduled for November 14 and 15, 2012. In such instance, the Companies' rights pursuant to Rule Puc §203.09(a), regarding discovery, would be essentially meaningless.

7. It is in the public interest to adjust the schedule in this proceeding to allow for the NHTA Members to submit testimony and provide the opportunity to state their position in this case. Should the Commission grant the NHTA Members intervenor status, it is in each party's interest in this docket to know the position of NHTA Members. The Companies see no other manner in which this can be accomplished in a fair manner, and without prejudicing the rights of the other parties, than to extend the procedural schedule to accommodate testimony by the NHTA Members.

8. For the reasons set forth herein, the Companies request that the procedural schedule be adjusted to extend by one month all of the remaining scheduled dates in this proceeding permitting the NHTA Members time to submit any testimony by no later than September 14, 2012, in the event that they desire to do so. Modifying the procedural schedule in such manner will still allow the docket to meet the 360 timeframe set forth in 47 U.S.C. §224. In the alternative, should the Commission reject the request for extension to the procedural schedule as proposed; the Companies respectfully request a second pre-hearing conference be held at the next earliest possible date to allow all of the parties to reach agreement on an adjustment to the present procedural schedule pursuant to Rule 203.15(a).

[Signature Page Follows]

Respectfully submitted this 31st day of August, 2012.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

By: 

Michael J. Hall
Senior Counsel
Public Service Company of New Hampshire
780 N. Commercial Street
Manchester, NH 03101
(603) 634-2273
Michael.Hall@nu.com

UNITIL ENERGY SYSTEMS, INC.


By: _____
Gary Epler
Chief Regulatory Counsel
Unitil Service Corp
6 Liberty Lane West
Hampton, NH 03842-1720
603-773-6440
Epler@unitil.com

CERTIFICATE OF SERVICE

I certify that on this date I caused the attached Motion to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

August 31, 2012

A handwritten signature in cursive script, appearing to read "Michael J. Hall", written over a horizontal line.

Michael J. Hall