



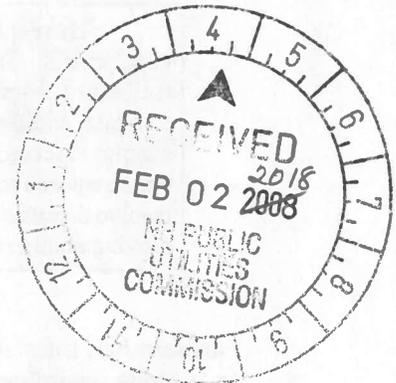
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February 2, 2018

Debra A. Howland
Executive Director
State of New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429



RE: DRM 17-139, Rulemaking – N.H. PUC 1300 Utility Pole Attachment Rules Readoption and Amendment

Dear Director Howland:

Over the past few months, the University of New Hampshire (UNH) has provided both oral and written responses related to the DRM 17-139 proposed PUC1300 Rulemaking on Pole Attachments. UNH is in a unique position to comment on the re-adoption of the PUC1300 Pole attachment rules based on current and past projects and involvement in multiple initiatives to expand broadband throughout New Hampshire.

- UNH had first-hand experience in the process, timelines, and gaps in the existing rules as part of the 2010-2013 BTOP project where we attached to over 24,000 poles.
- The UNH CIO, Director of Broadband Services and Director of Strategic Technology serve on the NH School Connectivity Initiative with the goal of connecting fiber to every K-12 in the state.
- The UNH Director of Broadband Services and Director of Strategic Technology also serve on the Statewide Interoperability Executive Committee and are members of the Data Communications Working Group.
- Finally, UNH continues to utilize existing providers to construct new fiber connections to provide diverse entry into our existing facilities as well as new connections that provide access to Internet2 for researchers to connect to other institutions around the globe.

Our goal in this response is to help ensure a streamlined process and reasonable cost for access to utility poles to support broadband expansion for all of New Hampshire's citizens and businesses.

At the technical hearing last fall and at the Jan 24th DRM 17-139 PUC1300 hearing, a number of people testified that the current process works well and does not require any changes. Just because the industry feels the existing rules are working today does not mean that the gaps identified previously have gone away and that they may not return in the future. As we prepare for the next decade of

technology, it is critical that we streamline the pole attachment process and remove any ambiguity in the language and obligations. UNH offers the following comments that challenge those opinions:

I - Clarification of whom the rules apply to:

According to the NH PUC Director of Telecommunications response to DT12-246 dated Oct 09, 2012,

There was general agreement that existing rules do not address third party attachments. The pole owners also generally concurred that they have no obligation to facilitate third party attachments, other than the work required to license third party attachers and perform make-ready required on their own facilities in a non-discriminatory manner. According to the pole owners, they do not have the resources to do the physical work required to move other utility facilities, do not want to become fact finders to resolve disputes between third parties and should not be expected to incur the liability of moving another utility's working facilities.

Furthermore, the staff's analysis in that same document recommended that more work needed to be done regarding multiple attachers:

Staff Analysis and Recommendation

There are currently no requirements for coordination of sequential work by multiple attachers, which is often necessary when a new attachment is authorized on a utility pole. It is not clear whose responsibility it is to notify each of the attachers in order to get the work done. The lack of a defined process can lead to confusion, delay and disputes. There are no rules to define delay or how disputes should be resolved.

Staff recommends the proceeding should be used to develop Commission rules to establish timing and coordination of third party make-ready when a new competitor is licensed to attach to a utility pole, as well as dispute resolution options. Staff further

While the current mark-up does attempt to resolve this, UNH believes that the proposed mark-up still leaves potential ambiguity in the definition of "all make-ready" and recommends adding "including third-party attachers".

DRM 17-139 proposed PUC1300 Rulemaking on Pole Attachments

Puc 1303.12 Make-Ready Work Timeframes. Unless otherwise agreed by parties to a pole attachment agreement, pole make-ready work involves 300 poles or fewer, the owner or owners of a pole shall ensure that all complete make-ready work is completed within 150 days after any required pre-payments are rendered for make-ready work estimates provided to the attaching entity by the pole-owner or owners of the pole. If where make-ready work involves requires 10 poles or fewer and no pole replacements, the all make-ready work shall be completed within 45 days after any required pre-payments for estimates are rendered. If make-ready work involves more than 300 poles, the owner or owners of a pole and the attaching entity shall negotiate a schedule for completion of such make-ready work in good faith.

UNH also recommends clarification that it is the pole owner's responsibility to meet those deadlines whether the completion will be enforced through their agreements with the third-party attachers or the pole owners will be forced to make the moves themselves.

II - Fee Structure:

There was a reference made during the last hearing that the current fee schedule works and the process of new attachers negotiating with the existing attachers does not need to be changed. The current make-ready fee structure is set by each individual provider and has some charging the same amount per move as the pole owner charges, even though they don't have the same level of overhead required of the pole owner.

UNH recommends adoption of the FCC rate formula as it provides reasonable compensation, spurs competition and expansion, and enables fair, unbiased access.

III – Wireless Antennas

Numerous telecom industry articles state that future broadband expansion will likely necessitate small-cell and micro-cell deployments. The upcoming transition to 5G LTE will likely place even greater demand on the pole attachment process as microcells and distributed antenna systems will utilize both the top of the poles for antennas as well as the communications space for backhaul. These networks will increase capacity in urban areas as well as fill gaps in rural areas. UNH supports the CTIA comments on section 1303.01 and NH PUCs addition or the language including access to the top of the poles.

October 27, 2017 - CTIA response to Commission Staff's October 20, 2017 Initial Proposal for redoption with amendments of the New Hampshire Pole Attachment Rules

2) Access Standard. CTIA recommends a further revision to PUC 1303.01, "Access Standard" for attachments. Specifically, CTIA recommends that the definition be revised as follows:

PUC 1303.01 Access Standard. The owner or owners of a pole shall provide attaching entities access to such pole on terms that are just, reasonable, and nondiscriminatory. Such access shall include wireless facility attachments above the communications space on the pole, consistent with National Electric Safety Code standards. The owner or owners of a pole may deny a request for attachment to such pole:

IV - Pole Attachment Timelines

The pole attachment timelines are still considerably longer than the FCC guidelines because the FCC clock starts with the application process. UNH still believes that the best modification would be to amend the 1300 rules to have language similar to the language on FCC 11-50 APPENDIX A, 1.1420 Timeline for access to utility poles. Barring that, UNH is restating its continued support of the recommendations CTIA submitted to the NH PUC on 10/27/2017 regarding make-ready timelines:

October 27, 2017 - CTIA response to Commission Staff's October 20, 2017 Initial Proposal for redoption with amendments of the New Hampshire Pole Attachment Rules

1) Make-Ready. The cover page accompanying the Initial Proposal indicates that Commission Staff is still seriously considering the potential merits of adding new and more detailed provisions regarding make-ready timelines and remedies. As discussed in CTIA's October 16th comments, CTIA strongly urges Commission Staff to adopt the four-stage timeline provided in the Federal Communications Commission's ("FCC's") rules. The FCC's timeline allows a reasonable timeline of 45 days for a survey, 14 days to prepare an estimate of make-ready work, 14 days for the attachers to accept the estimate, and 60-75 days for the completion of make-ready work, with a maximum of 148 days for all four stages.³ While PUC 1303.12, Make-Ready Timeframes, in the Initial Proposal provides that "pole owners shall complete make-ready work within 150 days after prepayments are rendered," CTIA believes

delineation of the maximum times for the various stages will serve to promote broadband deployment in the Granite State.

V - One Touch Make-Ready

Finally, UNH believes that the best outcome of the readoption with amendments would be to stipulate the concept of One Touch Make Ready.

Thank you for the opportunity to provide input for this critical component of broadband in New Hampshire.

Respectfully submitted,



Brian T. Shepperd
Director – Broadband Services