

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 22-047

**CHARTER COMMUNICATIONS, INC., COGECO US FINANCE, LLC
d/b/a BREEZELINE, AND COMCAST CABLE COMMUNICATIONS, LLC**

Petition for Resolution of Rate Dispute

Procedural Order Re: Consolidated's Motion to Reopen the Record

In this docket, Charter Communications, Inc., Cogeco US Finance, LLC d/b/a Breezeline, and Comcast Cable Communications, LLC (together, the Petitioners) filed a petition requesting that the Commission resolve their pole attachment rate dispute with Consolidated Communications of Northern New England, LLC (Consolidated). One issue in this docket is whether the rates Consolidated charges the Petitioners for pole attachments are “just and reasonable” under Puc 1303.06. The Commission held an evidentiary hearing in this matter on January 26, 2023. On February 9, 2023, Consolidated moved to reopen the evidentiary record pursuant to Puc 203.30(a) and (b) to introduce additional evidence into the record, namely the Petitioners’ response to Consolidated Data Request 1-7. *See* Puc 203.30(a) (“The commission shall . . . authorize filing of exhibits after the close of a hearing if the commission finds that late submission of additional evidence will enhance its ability to resolve the matter in dispute.”).

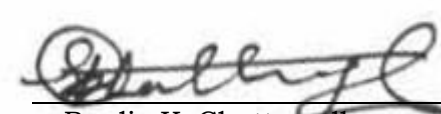
In Data Request 1-7, Consolidated asked the Petitioners to describe their broadband investments in both Maine and New Hampshire for the years 2018 through 2021, as well as available data for the year 2022. According to Consolidated’s motion, the Petitioners objected and did not provide the requested information. Consolidated argues that the Petitioners’ failure to provide this data is relevant to the issues before the Commission, and should thus be admitted under Puc 203.30(a), because: (1) the

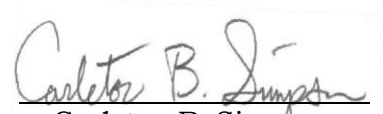
Petitioners had the burden under Puc 203.25 to establish that the pole attachment rates they proposed were just and reasonable; and (2) the Petitioners' objection constitutes "an admission" that they have failed to present evidence relevant to several factors the Commission must consider in making this determination under Puc 1303.06(a). *See Consolidated's Motion to Reopen the Record at 2-3.*

After due consideration, the Commission denies Consolidated's motion. Under Puc 203.30(a), the Commission is required to allow late submissions only if it finds that the additional evidence will enhance its ability to resolve the matter in dispute. *See also* Puc 203.30(c) (providing that, in making this finding, the Commission shall consider, among other factors, the probative value of the proposed exhibit). According to Consolidated, the relevant issue is whether the Petitioners have presented sufficient evidence for the Commission to find in their favor on what constitutes a just and reasonable rate for pole attachment charges. Whether there is evidence in the record to support the Petitioners' position is a factual question for the Commission. *See* Puc 1303.06(a). The evidence proffered by Consolidated concerning Petitioners' objection to providing evidence concerning their broadband deployment does not enhance the Commission's ability to review the record and make factual findings based on what evidence the parties have actually introduced. Accordingly, Consolidated's motion to reopen the evidentiary record is **DENIED**.

So ordered, this tenth day of February, 2023.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 22-047

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