

DEM 08-004



I hereby certify that the foregoing notice was published in The Union Leader and/or New Hampshire Sunday News, newspapers printed at Manchester, N.H., by the Union Leader Corporation on the following dates, Viz: 5/21/09

(Signed) Phyllis Gilbert

UNION LEADER CORPORATION

State of New Hampshire,
Hillsborough, SS. (Dated)..... 5/27/09

Subscribed and sworn to by the said Phyllis Gilbert

Before me
Marsha A. McGinnis
Notary Public
State of New Hampshire
My Commission Expires 04/19/2011

Legal Notice

THE STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION DRM 08-004 ORDER OF NOTICE

On May 1, 2009, the Commission voted pursuant to RSA 541-A to initiate a rulemaking for N.H. Code Admin. Rule Puc 1300, Utility Pole Attachments. The Commission's initial proposal consists of a readoption with amendment of the existing Interim Rule Puc 1300, Utility Pole Attachments. Section 224(c) of the federal Telecommunications Act of 1996, 47 U.S.C. § 224(c), authorizes states to assume regulatory jurisdiction over rates, terms, and conditions, and access to poles, ducts, conduits, and rights-of-way, including disputes between the owners of utility poles and persons attaching or seeking to attach facilities to those poles. The Legislature authorized the Commission to assume such jurisdiction in 2007 N.H. Laws Ch. 240, codified as RSA 374:34-a. As a result, disputes over utility pole attachments in New Hampshire may now be properly brought before the Commission rather than the Federal Communications Commission.

Specifically, the proposed rule sets forth procedures and standards for the Commission to resolve disputes concerning rates, charges, terms and conditions of pole attachments that may arise between public utilities that own or co-own utility poles and entities such as telecommunications providers, electric service providers, cable television providers, municipalities that have facilities attached to such poles or that seek such attachments. At this time, Puc 1300 has been adopted as an interim rule effective January 17, 2008 that is due to expire on January 17, 2010.

A rulemaking notice form (Notice) was filed with the Office of Legislative Services on May 12, 2009 pursuant to RSA 541-A:6. This Notice, attached hereto, sets forth a date for a public hearing to be held at the Commission and a deadline for submission of written comments.

A copy of the Rulemaking Notice will be sent to all regulated utilities and to parties who have requested notice of rulemakings pertaining to utility pole attachments. Pursuant to RSA 541-A:6, III, notice may also be provided by public notice advertisement in a publication of daily statewide circulation.

The readoption with amendment may be viewed on the Commission website, www.puc.nh.gov, or copies may be obtained from the Commission, as set forth in the Notice.

Based upon the foregoing, it is hereby

ORDERED, that a Public Hearing, pursuant to 541-A:11, be held before the Commission located at 21 S. Fruit Street, Suite 10, Concord, New Hampshire on June 18, 2009 at 9:00 a.m., and that the deadline for submission of materials in writing or via e-mail shall be June 25, 2009, as set forth in the Notice; and it is

FURTHER ORDERED, that pursuant to RSA 541-A:6, III, the Commission shall undertake a public notice advertisement by publishing a copy of this Order together with the Notice no later than May 21, 2009, in a newspaper with a daily statewide circulation, publication to be documented by affidavit filed with the Commission on or before June 18, 2009.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of May, 2009.

Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability, should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 South Fruit Street, Suite 10, Concord, New Hampshire 03301; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

APPENDIX II-C

RULEMAKING NOTICE FORM Rule Number Puc 1300

1. Agency Name & Address: **Public Utilities Commission, 21 South Fruit Street, Suite 10, Concord, NH 03301**
2. RSA Authority: **RSA 374:34-a, III**
3. Federal Authority: **47 U.S.C. § 224(c)**
4. Type of Action: **Readoption w/ amendment**
5. Short Title: **Puc 1300 - POLE ATTACHMENTS**

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Puc 1300, pursuant to the mandate of RSA 374:34-a, provides for regulation by the State Public Utilities Commission rather than the Federal Communications Commission of rates, charges, terms and conditions of utility pole attachments that are just, reasonable and in the public interest.

The proposed revisions codify specific issues and procedures related to the attachment of electric, telecommunications, and cable facilities to utility poles, including definitions, notification and procedures for the addition of attachments and modifications thereof, standards for installation and maintenance of attachments, and standards and procedures for dispute resolution. The effect of these revisions is to create more clarity and predictability for pole owners and attaching entities with respect to the attachment and maintenance of such facilities on utility poles.

6. (b) Brief description of the groups affected: **Public utilities that own or co-own utility poles, and entities such as electric service providers, telecommunications providers, cable television providers and municipalities that have facilities attached to such poles and/or that seek such attachments.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Puc 1300 - Applicable Statute, RSA 374:3; RSA 374:34-a

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Lynn Fabrizio, Esq.**
Address: **21 South Fruit Street, Suite 10, Concord, NH 03301**
Title: **Staff Attorney**
Phone #: **603-271-6030**
Fax #: **603-271-3878**

E-mail: **lynn.fabrizio@puc.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **June 25, 2009**

- Fax

- E-mail

9. Public hearing scheduled for:
Date and Time: **June 18, 2009 at 9:00 AM**

Place: **Public Utilities Commission, 21 South Fruit Street, Suite 10, Concord, NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS #09:074 dated May 8, 2009

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: **The proposed rules do not modify an existing program or responsibility in any way that violates Part I, Article 28-a.**

(UL - May 21)