

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 20-104

TOWN OF DURHAM PUBLIC WORKS

**Complaint by Town of Durham, City of Dover, City of Portsmouth,
City of Somersworth, Town of Newmarket, Town of Exeter, and Town of Newington against
Consolidated Communications of Northern New England Company, LLC
d/b/a Consolidated Communications-NNE**

ORDER OF NOTICE

On July 1, 2020, the Town of Durham filed a complaint against Consolidated Communications of Northern New England, LLC d/b/a Consolidated Communications-NNE (Consolidated), which was signed by representatives of six other New Hampshire Seacoast municipalities: the cities of Dover, Portsmouth, and Somersworth; and the towns of Exeter, Newington, and Newmarket (together, with the Town of Durham, the Complainants). The cities of Dover and Somersworth filed supplements to the complaint with accompanying attachments. The complaint and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-104.html>.

The Complainants asserted that Consolidated has failed to remove old, duplicate utility poles in a timely manner, leading to the existence of "double poles" in a number of locations. For example, in its supplement, the City of Dover stated there are presently 270 double poles in Dover, and that it takes Consolidated on average more than a year to remove an old pole. The Complainants maintained that the double poles, often located in municipal rights of way and public sidewalks, have resulted in safety, access, and aesthetic issues. They requested that the Commission establish a policy requiring public utilities using utility poles to remove their old, duplicate poles within 30-60 days of the date the new poles are installed.

Consolidated responded to the complaint by explaining that there are a number of reasons for a delay in removing old poles. Consolidated noted that it generally has installed its attachments on the lowest point on the utility poles in northern New England, so that it may have to wait until four or five other parties remove their equipment from an old pole before it may then do so. However, Consolidated acknowledged the existence of approximately 60 double poles in the Town of Durham, and stated that it has begun removing the old poles. Consolidated proposed that the Commission hold the complaint in abeyance to permit it to remedy the situation, pursuant to RSA 365:3.

Commission Staff (Staff) filed a recommendation on August 21, 2020. Staff maintained there was sufficient evidence to justify the Commission's investigation of the issues raised in the complaint and recommended commencement of an adjudicatory proceeding to resolve the complaint. The Office of the Consumer Advocate (OCA) filed a letter supporting Staff's recommendation to open an adjudicative proceeding.

After reviewing the filings in this matter, the Commission has determined that Consolidated has not satisfied the charges in the complaint, as provided in RSA 365:3, and that there are reasonable grounds to proceed with adjudication of the complaint. The Commission is therefore opening an adjudicative proceeding to resolve the complaint in accordance with N.H. Admin. R., Puc 204.05 and Part Puc 203.

The filing raises, inter alia, issues related to whether specific standards govern when Consolidated must ensure that attached telephone wires and other equipment are transferred to new utility poles and remove old, duplicate poles; whether Consolidated is responsible for any delays in transferring attached telephone wires and other equipment to new utility poles and removing old, duplicate poles; whether and to what extent delays in transferring attached telephone wires and other equipment to new utility poles or in removing old, duplicate poles affect safety or access in

the affected municipalities; whether new policies, guidance, or rules should be established governing the installation of new utility poles, transfer of attached facilities to new utility poles, and removal of old, duplicate poles; whether N.H. Admin. R., Puc 1300 (Utility Pole Attachments), relevant engineering codes, and pole attachment agreements require Consolidated to remove old, duplicate poles in those maintenance or “set” areas where Consolidated is the responsible pole owner; and whether and to what extent the Commission has authority under RSA 374:34-a or other applicable law to implement any such changes or issue any such directives. Each party has the right to have an attorney represent the party at the party’s own expense.

Based upon the foregoing, it is hereby

ORDERED, that, consistent with Governor Christopher T. Sununu’s Emergency Order #12, the Commission will hold a web-enabled remote prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, on October 6, 2020 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the complaint and any of the issues set forth in N.H. Admin. R., Puc 203.15. Members of the public who wish to access the prehearing conference may do so by [clicking here](#). **If you have any difficulty obtaining access to this remote event, please notify the Commission by calling (603) 271-2431 as soon as possible.** Parties will be provided with additional instructions prior to the prehearing conference; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, the Complainants, Consolidated, the Staff of the Commission, the OCA, and any intervenors hold a web-enabled remote technical session to review the complaint, supplements, and attachments; and it is

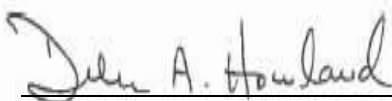
FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, the Complainants and Consolidated shall notify all persons desiring to be heard at this hearing by publishing a copy of this order of notice on their websites no later than three business days after the date of issue. In

addition, the Executive Director shall publish this order of notice on the Commission's website no later than one business day after the date of issue; and it is

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any party seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to the Complainants, Consolidated, and the OCA on or before October 1, 2020, such petition stating the facts demonstrating how its rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, any party seeking to intervene may elect to submit this filing in electronic form; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before October 6, 2020.

By order of the Public Utilities Commission of New Hampshire this fourth day of September, 2020.



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 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 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.

Service List - Docket Related

Docket# : 20-104

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