

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

CRC COMMUNICATIONS LLC, D/B/A OTELCO,

Complainant,

v.

MASSACHUSETTS ELECTRIC COMPANY D/B/A
NATIONAL GRID, AND VERIZON NEW
ENGLAND INC.

Respondents.

D.T.C. 22-4

**OTELCO'S RESPONSES TO
THE DEPARTMENT OF TELECOMMUNICATIONS AND CABLE'S
SECOND SET OF INFORMATION REQUESTS**

CRC Communications LLC d/b/a OTELCO ("OTELCO") responds as follows to the Second Set of Information Requests from the Department of Telecommunications and Cable ("DTC") to OTELCO. OTELCO expressly reserves the right to modify and/or supplement any of its responses as additional information and/or documentation becomes available, and in light of Massachusetts Electric Company d/b/a National Grid ("National Grid") and/or Verizon New England Inc's ("Verizon") responses to Information Requests served by any of the parties, the Department of Public Utilities ("DPU"), and/or the DTC in this case.

D.T.C. 22-4
OTELCO's Responses
to the DTC's Second Set of Information Requests

Respondent: David Allen

Title: General Manager and Senior Vice President, Otelco, Inc.

Response Dated: August 2, 2022

REQUEST NO: DTC-OTEL 2-1

REQUEST: Please refer to DTC-OTEL 1-7. Please identify the ILEC(s) in the referenced Maine territories where OTELCO is the lowest attacher. If OTELCO is not the ILEC, please describe the process that OTELCO underwent to become the lowest attacher.

RESPONSE: The ILEC in the referenced Maine territories where OTELCO is the lowest attacher is Consolidated Communications. In Maine, “[a] prohibition against attachments below existing attachments, to the extent that space is not available above existing attachments along the proposed route (or most of the route) of the additional attachments” is presumptively unreasonable. Code Me. R. tit. 65-407 Ch. 880, § 2(B). *See also* Compl. ¶ 55. Notably, prior to enacting this rule, in a 2006 adjudicatory decision, Maine directed Verizon to allow an attaching entity to attach facilities below Verizon’s and to use the boxing construction method. *See Oxford Networks f/k/a Oxford County Telephone, Request for Commission Investigation into Verizon’s Practices and Acts Regarding Access to Utility Poles, Docket No. 2005-486, Order (Oct. 26, 2006)* (finding Verizon’s policies and requirements regarding the lowest position on the pole, the boxing of poles, the use of extension arms, and the attachment timeframes to be unjust and unreasonable, and in the case of boxing, also discriminatory, and ordering Verizon to modify its practices to allow attachment below Verizon if space is not available above Verizon, and to allow Oxford to box poles in specific circumstances).

As described in the Pre-filed Responsive Testimony of David Allen, OTELCO routinely attaches facilities below the lowest existing attacher in Maine. In Maine, the applicant attacher performs the preliminary survey and measurements of heights and identifies that a spot is available below the lowest existing attacher. The applicant attacher then informs the pole owner that the lowest spot is available for attachment. The pole owner will then review the proposal and indicate whether it agrees that OTELCO may attach below the lowest attachment. In rare instances, the pole owner will determine that OTELCO may not attach in the lowest position based upon its determination that additional surface clearance is needed for that particular pole. In such cases, OTELCO proposes an alternative attachment solution.

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Respondent: David Allen

Title: General Manager and Senior Vice President, Otelco, Inc.

Response Dated: August 2, 2022

REQUEST NO: DTC-OTEL 2-2

REQUEST: Please refer to DTC-OTEL 1-8. Please specify whether it is OTELCO's position that it should not be charged for a portion of Verizon's pre-construction survey costs.

RESPONSE: It is not OTELCO's position that it should not be charged for a portion of Verizon's pre-construction survey costs but, rather, that it does not consider Verizon's pre-construction survey cost *estimates* to be limited to identifying costs directly related to make-ready work necessary for OTELCO's attachments since those surveys also facilitate the collection of information that Verizon needs irrespective of OTELCO's attachments. That said, OTELCO does not believe that Verizon should charge OTELCO costs for the full cost of work that also benefits Verizon.

D.T.C. 22-4
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Respondent: David Allen

Title: General Manager and Senior Vice President, Otelco, Inc.

Response Dated: August 2, 2022

REQUEST NO: DTC-OTEL 2-3

REQUEST: Please refer to DTC-OTEL 1-10, example No. 6. Please clarify OTELCO's understanding as to why it is being charged for the pole replacement, including whether OTELCO believes it is being charged for the pole replacement because once the pole is brought into compliance there would still be no room remaining for an additional attacher.

RESPONSE: With respect to example No. 6 in DTC-OTEL 1-10, National Grid's approved engineering contractor Osmose Utilities Services, Inc. ("Osmose") stated in its survey of this pole that another third-party telecommunications company, MBI, is attached in violation of the NESC on the pole. This violation is a pre-existing condition that cannot be corrected or remedied without a pole replacement. Furthermore, OTELCO was advised by Osmose that Verizon's contractor Pike Telecom & Renewables, LLC ("Pike") informed Osmose that Verizon was unable to attach at a lower position on the pole. Yet the current proposal for this pole is for *OTELCO* to bear the full cost of the pole replacement, or to install an underground fiber path around the pole.

The Verizon final make-ready indicates that this pole is being replaced, but OTELCO is not being billed for Verizon's work. This equates to \$1,768.02 in make-ready charges that are non-billable to OTELCO. OTELCO has not yet received the final make-ready for this pole from National Grid, nor the make-ready invoice. Regardless, OTELCO would not be able to determine whether or not the make-ready on this pole was non-billable due to National Grid's refusal to provide OTELCO with a detailed breakdown of costs attributable to specific make-ready charges on each pole.

OTELCO is not opposed to contributing a share of the cost of a pole replacement that is necessary to accommodate its proposed attachment. However, a pole replacement that eliminates the need to correct an existing pole condition also benefits the pole owner. This includes where the remaining groundline strength of the pole has deteriorated below the level required by the NESC. In fact, whenever an older, shorter pole is replaced with a new, often taller pole (at least five feet since poles come in five-foot increments), the pole owner benefits by avoiding the eventual need to replace the pole, reducing its maintenance costs, and, in the case of a taller pole, adding capacity for its own needs and for additional third-party rentals.

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Respondent: David Allen

Title: General Manager and Senior Vice President, Otelco, Inc.

Response Dated: August 2, 2022

REQUEST NO: DTC-OTEL 2-4

REQUEST: Please refer to David Allen's pre-filed testimony on page five (lines 4-11). Please describe these review processes in greater detail.

RESPONSE: In addition to the description of the review process provided in the Pre-filed Testimony of David Allen on page five, lines, 4-11, OTELCO responds that applications are submitted by OTELCO in SmartApp for National Grid, and vLicense for Verizon. As part of the Applicant Directed Design ("ADD") process, Osmose surveys the desired route using CVT stick technology to produce make-ready engineering results in OCALC for National Grid. OTELCO subcontracts this work to Osmose.

Pike surveys using Hasting's sticks, and it is unclear if Pike uses any digital systems to produce make-ready engineering results for Verizon. Verizon subcontracts to Pike directly.

Osmose and Pike survey independently, not on joint ride outs. The two companies then reconcile results to determine if the results match. If not, they determine what work will need to be done. Osmose sends those reconciled results to OTELCO for review. OTELCO reviews for high make-ready requirements (in scope of work and proposed/expected cost) to determine if it wants to eliminate that pole from the design. In addition, OTELCO reviews proposed work to see if it agrees with what is being proposed.

Once that is complete, OTELCO's licensing group coordinator reviews the proposed make-ready to look for missed pre-existing conditions and to question billable items or long lead time make-ready work that is being proposed if an alternative solution may work. As OTELCO has thus far been blanketly denied alternative solutions such as opposite side construction, it refrains from proposing boxing as an alternative make-ready solution, even in cases where that type of construction would prevent costly and timely make-ready.

If there is no movement from Osmose and Pike on changing the proposed solution, OTELCO would send the proposed solution to its engineering group to determine if those poles with long lead time make-ready work should be eliminated from the design. This could mean eliminating streets or portions of a town's build, or burying a section of the fiber underground to avoid poles.

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There are many cases where in OTELCO's opinion there is enough space based on NESC requirements or existing violations that could be cleared, or that the work identified should not be billed as make-ready. OTELCO provides this feedback to Osmose. Osmose reviews this feedback with Pike and National Grid for feasibility. Osmose then replies to OTELCO to advise of results. This process may be done several times until all issues are resolved or accepted.

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Response Dated: August 2, 2022

REQUEST NO: DTC-OTEL 2-5

REQUEST: Please refer to David Allen's pre-filed testimony on page 20 (lines 9-11). Please provide support for the statement that "there are numerous poles in [Massachusetts] where Verizon is attached higher above grade than is required by the NESC and other applicable standards."

RESPONSE: OTELCO refers the DTC to Exhibit DA-8 attached to the August 1, 2022, Pre-filed Responsive Testimony of David Allen, which identifies examples of poles in Belchertown, Massachusetts where Verizon is attached above the required ground clearance.

Additionally, in Verizon's responsive testimony at page 19, lines 25-28, its witnesses, David Wolanin and John Gallagher, claim that Exhibit DA-7 to the direct Pre-filed Testimony of Davide Allen, incorrectly presumed there was sufficient space for OTELCO to attach below Verizon. OTELCO disagrees. Take Maine, for example, a state that experiences similar weather to Massachusetts. There, Consolidated Communications expressed a similar concern about OTELCO attaching at the NESC-minimum height. OTELCO reassured Consolidated Communications by confirming that OTELCO's engineering (performed by CHR Solutions) specifies that it attach 6" above minimum. Consolidated Communications accepted that as the common practice other providers have used in Maine for years. It did not express any engineering concern about their cable sagging into OTELCO's, so long as OTELCO maintained the minimum separation at installation time. CHR Solutions used the same engineering approach in this analysis.

In fact, even if Verizon's argument could be accepted at face-value, several of the examples provided in Exhibit DA-8 would even leave room for a bottom attachment at 16' if 2-2.5' were subtracted from the lowest attachment. P 29 (t) 4 (e) Orchard Street, Belchertown, provides a good example. Verizon has told OTELCO that Verizon will attach at 16' over a residential driveway, but in the case of this pole, Verizon refused to lower from 19'7" to 18'7" to make room for OTELCO's attachment. Yet subtracting 2.5' would still leave room to attach at 17' in the bottom position.

D.T.C. 22-4
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Respondent: David Allen

Title: General Manager and Senior Vice President, Otelco, Inc.

Response Dated: August 2, 2022

REQUEST NO: DTC-OTEL 2-6

REQUEST: Please refer to Dr. Lawrence Slavin's pre-filed testimony on page 4 (lines 10-11). Please clarify to whom "it" is referring to in the phrase "it is also recognized."

RESPONSE: The portion of the testimony referenced states: "While a utility may decide to exceed the rules of the NESC in order to create an even 'safer' environment, it is also recognized that it is necessary to balance various issues when attempting to provide essential (lifeline) services to the public." The "it" in this sentence refers to the NESC. NESC rules are globally recognized and intended to provide a *practical* standard of safe practices that can be adopted by public utilities, private utilities, state or local utility commissions or public service commissions, or other boards or bodies having control over safe practices employed in the design, installation, operation, and maintenance of electric supply, communication, street and area lighting, signal, or railroad utility facilities. As a practical standard, this means that it is necessary to balance various issues, such as in joint-use construction or boxing.