

An Open Letter to Mr. Gary Long

Dear Mr. Long,

We have read with concern your recent press release about North Country broadband in which you state:

“ . . . the intention of The Northern Pass is not to provide telecom service, but to provide ‘backbone’ fiber infrastructure, and partner with state and local telecom providers to facilitate enhanced service, reliability, and capacity to business and residential customers. A team of internal and external electric and telecom experts have been reviewing the potential of co-locating the direct current transmission equipment and broadband technology on the same structures, and identifying opportunities to partner with telecom companies.” (“Northern Pass Exploring Development of Broadband Infrastructure in Northern New Hampshire,” April 20, 2011.)

It is not clear if you are proposing this new telecommunications usage for existing PSNH right-of-ways (ROWs) such as those that run through the Woodstock, Easton, Sugar Hill, Franconia, and Bethlehem area and on which there is a high voltage AC line on 45’-55’ wooden poles. If you are, such new usage violates the terms of your easement for many if not most of these ROWs. These early (pre-1950) easements explicitly allow PSNH only “the right to erect, repair, maintain, rebuild, operate and patrol electric transmission and distribution lines, consisting of suitable and sufficient poles and towers, with suitable foundations, together with wires strung upon and extending between the same, for the transmission of electric current . . .” (emphasis added).

For the PSNH easements that are clearly limited to the transmission of electric current, as many if not most in this area would appear to be, it is simply a non-starter to suggest that fiber optic cable for new customer services could be added. Just last summer in the segTEL case, in which segTEL, Inc., wanted to add fiber optic cable for telecommunications to PSNH utility poles, the NH Public Utilities Commission made it perfectly clear that the consent of the landowners is necessary to add these new lines to the easements. PSNH itself maintained that “there is no presumption under New Hampshire law that a right-of-way owned and used by an electric utility for power line purposes may be made available to third parties for telecommunications uses unrelated to the electric utility’s business.” (See <http://www.puc.state.nh.us/Regulatory/Docketbk/2008/08-146.htm>)

In sum, for many or most of your existing ROWs in Grafton County, your press statement on broadband for the North Country implies a right that PSNH does not have; PSNH would give away something that it does not own. We request that you clarify your intentions by specifying which ROWs you plan to use for broadband immediately.

As landowners and residents in a town with no broadband or cable, we know first-hand the importance of affordable access for all in both central and northern New Hampshire. We understand that solutions that do not violate private property rights are close to completion for northern New Hampshire.

We would appreciate a timely response to our request for clarification. Thank you.

Jean E. Kennard

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Easton NH

April 26, 2011