

MEMORANDUM

To: Joint Legislative Committee on Administrative Rules

From: James Volz, Chairman, Public Service Board

Re: Explanation of arguments and changes to proposed Rule 3.700

Date: May 21, 2008

As you may know, the present amendment to Public Service Board Rule 3.700, pertaining to attachments to utility poles, was mandated by the Legislature in 2007 in Act 79, Section 6 (codified at 30 V.S.A. § 209(g)). The purpose of that statute was to facilitate widespread delivery of broadband internet service and wireless telecommunications to as many Vermonters as possible by giving providers of those services access to space on utility poles.

Since this amendment was proposed pursuant to legislative action, comments from interested persons focused on the mechanics of providing access, not whether the Rule ought to be amended. The main issue, one which required considerable negotiation and discussion among the affected parties, is that of safety, both for the public at large and, especially, for utility workers who must be able to safely work on poles, wires, and other utility facilities. The introduction of new kinds of equipment, including some that will be located within the space occupied by energized electric lines, will present challenges to utility workers and the companies that employ and train them. Changes that were made to the Rule in response to these challenges include: (1) a requirement that a provider that does not hold a certificate of public good to provide service in Vermont (and therefore is not subject to the Board's other regulations) must provide a sworn statement of identification and of agreement that it will abide by this Rule and by the attachment rules and tariffs of the pole-owning utility (section 3.702(C)); (2) a requirement, when wireless equipment is installed in the electric space on a pole, that the installation and maintenance work must be performed by the electric utility or its authorized contractors (section 3.707(A)(4) and 3.708(G)); and (3) authority for the pole-owning utilities to create their own protocols for allowing wireless attachments (section 3.708(K)). The last section is deliberately left somewhat open to provide flexibility for both the pole-owners and the wireless providers as they gain experience in the future, as well as to recognize that larger

utilities will probably have an easier time adjusting to the new attachments than smaller utilities with smaller worker-training resources. The last section also explicitly acknowledges that some utilities have offered to provide a second pole in some locations for attachments rather than placing wireless equipment in the electric or neutral space, as being a much safer and possibly cheaper alternative. Only experience will show whether this is really a practical alternative, but it certainly sounds like a positive alternative.

Non-safety related issues included: (1) allowing a wireless provider to designate a pole as its customer location, so it may receive electric or telephone service at its wireless transceiver location (section 3.707(A)(5)); (2) several technical corrections to errata from earlier versions of the Rule; and (3) a suggestion that a new pole-attachment rate should be set in section 3.706(D). The last suggestion was not adopted, mostly because no one has experience on how much space this equipment may occupy nor how great the burden on the pole-owning utilities may be. It is also unclear how many poles will be affected by wireless attachments: with a telephone or cable television line all the poles in a service territory may be affected, while the wireless operators may attach to only a few poles in a town. The Board understands that it may need to revisit this issue in the future.