

**Upper Valley Lake Sunapee Region – Broadband Planning Program  
Broadband Stakeholders Meeting Minutes – 4/25/12**

**UVLSRPC Staff Present:** Rachel Ruppel and Adam Ricker

**Panelists Present:** Greg Lewis, Carol Miller, and Michael Ladam

**Members of the Public Present:** Dennis Pavlicek, Art Burdette, Bob Green, Lee Larson, Jessie Levine, Jeff Kessler, Nicole Cormen, Ted Jastrzembki, John Hession, Michael Mock, and Bernard Folta.

Rachel Ruppel called the meeting to order at 4:10 pm. Introductions were made.

Ruppel provided an update on the current projects underway included the collection of each municipality's Cable Franchise Agreement (CFA) and the Rural Addressing Project. Ruppel explained that the RPC had collected copies of all of the existing CFAs and that if anyone wants a copy of any of the town's agreements to contact her or Adam to obtain a copy. Ruppel also provided an update on the Rural Addressing project, explaining that the project uses volunteer-collected GPS points to create rural address data in order to identify gaps in broadband coverage. Michael Ladam added that the data will be used to prioritize federal funding.

Ruppel asked Jessie Levine to give an overview and update of the FastRoads project. Levine explained that FastRoads is a three phase project designed to expand broadband in Western New Hampshire, where a middle-mile fiber optic backbone will be constructed and last-mile fiber-to-the-home will be constructed in two communities. The first phase is Orford to Enfield and construction of last-mile in Enfield, starting this spring. Phase 2 is Rindge to Keene, and Phase 3 is Keene to Enfield with a branch to Claremont. This project is 70% federal funding and 30% match; local banks are contributing a substantial amount of the match required. The project must be completed by 2013.

Bernie Folta asked about the use of wireless in the FastRoads expansion and Levine explained that there are no plans for permanent wireless service, but that temporary wireless may be utilized to promote faster deployment. Jessie also said that FastRoads is currently working with Sover.net and other ISPs.

Ruppel introduced the panelists, Carol Miller, the State Broadband Director at DRED; Greg Lewis, Lebanon's City Manager; and Michael Ladam of the Public Utilities Commission.

Michael Ladam, gave an overview and summary of the Public Utility Commission's role in regulating the telecom industry; his presentation is attached to these minutes. The PUC regulates telephone companies. Michael said that in 2011 the PUC determined that phone service provided by a cable company also falls under their regulation. However,

the PUC does not regulate carriers such as Vonage or MagicJack that are simply plugged into an existing phone service.

Ladam noted two “hot topics” in telecom. Per an FCC order in November 2011, in order to receive Universal Service Funds to expand their service, phone companies must commit to offer both phone and broadband service throughout the funded territory. Ladam explained that this is an opt-in program, not a requirement for phone companies. Also, Ladam reported that SB 48 seeks to partially deregulate telecommunications in New Hampshire.

Carol Miller from the NH Department of Economic Development was the next panelist to explain what she and her department do in relation to telecom. DED interfaces with many business and supports business in NH. DED offers constituent counseling to help create community profile of broadband service and provide options for communities who can't get service through Fairpoint or other regional providers. Miller explained that the state has maintained a hands-off approach and does not provide funding for the expansion of broadband.

The third panelist, Greg Lewis from the City of Lebanon spoke to the process and use of Cable Franchise Agreements.

Lewis outlined the process of the CFA and provided key questions to ask:

1. Assess the nature of how the cable provider can access your right-of-way.
2. Does your municipality currently have a CFA?
3. Associate yourself with people of expertise in the CFA process, to help you through the steps.
4. Engage the provider in conversation/negotiations and use an attorney with experience in the process with the provider for the conversation/negotiations.
5. Ascertainment – Level of service, needs of the community. (Record to engage the public in this process. i.e. Greg has a CATV show on the CFA Process)
6. Negotiation – Proposal and counterproposal
7. Hold Public Hearings in regards to the CFA and finally adopt the agreement.

Lewis said the process from start to finish should last about 18 months.

Following the panelists' presentations, the panel was asked questions by the audience. Bernie Folta, stated that the Vermont PUC negotiates CFAs on behalf of the municipalities and asked if this could be a possibility in NH. The question was raised about the distribution of franchise fees. Jessie Levine added that many states do have statewide cable franchise agreements but that the towns still get their franchise fee, and that the statewide agreement speeds up the negotiating process significantly. Jeff Kessler responded that NH is focused more on local control.

Carol Miller told the group that currently most municipalities in NH cannot bond for broadband expansion. RSA 33 currently only allows towns who are not served by any dial-service to bond for the expansion of broadband - if there is a central office in the town, a municipality cannot bond for broadband. If bonding takes place, it must be a revenue bond. Several stakeholders expressed their desire to have this legislation changed so that municipalities can work on expanding service into parts of town without service.

Ted Jastrzembski explained that the information that the project is gathering to display the gaps in service is critical. He explained that even though there are large areas without coverage that because the southern portion of the state is so well connected that NH appears to be doing very well in regards to residents with Broadband access. He explained that by having more accurate data that the state could benefit from having better access to the Universal Service Fund.

Michael Mock from Dorchester had a question about negotiating a cable franchise agreement for their town and how rights-of-way are owned/regulated. The panelists explained that rights-of-way can be owned by municipalities, utility companies or other entities. A cable company looking to expand service would need a cable franchise agreement to use the municipal right-of-way and would also need to negotiate the right to attach to the utility company's existing poles. Mock also asked whether the pole owner could force a cable company to remove their equipment from their poles if the cable franchise agreement has expired. The panelists stated that this was unlikely to happen, and that many communities have expired agreements.

Michael Ladam reported that Fairpoint's agreement with the Public Utilities Commission includes a guarantee of broadband service to be phased in over time. By the end of March 2013, Fairpoint must provide 95% of existing phone lines with broadband. He further added that this commitment cannot be met by cherry-picking the service areas.

Greg Lewis shared that Rob Ciandella has been their attorney for negotiating the cable franchise agreement and recommended his services.

The meeting concluded at 5:40 pm.

Attachments – Michael Ladam's presentation materials (pages 4-8)

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## *Telecommunications Regulation in New Hampshire 101: Flash Course*

Michael Ladam

New Hampshire Public Utilities Commission  
*Telecommunications Division*

**I am not speaking on behalf of the PUC. Any views or  
assessments I offer are my own.**

## Agenda

- What We Do: Regulate Phone Companies
- What We Do: Advise Government on Telecom Policy
- How We Regulate
- Spectrum of NH Telecom Regulation
- How Does This Involve Broadband ?
- What's Hot ?

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## What We Do: Regulate Phone Companies

- Authorize new competitors
  - Certification makes it easier for the company to attach to utility poles and to get blocks of telephone numbers
- Help resolve disputes among phone companies
  - Who must interconnect with whom?
  - Who can add fibers and wires to a utility pole?
  - What can companies charge each other for completing each leg of a call?
  - Is each living up to contractual obligations - if not, what is the remedy?
- Ensure that the "incumbent" phone companies meet their additional obligations
  - Offer service to every residence and business in their franchise area
  - Offer affordable basic service (rates reviewed or capped)
  - For some: lease some facilities to competitors
  - For some: offer competitors wholesale service below retail rates

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## Which Phone Companies Do We Regulate?

- Per state law: companies that "own, manage, or operate equipment for conveyance of telephone or telegraph messages"
  - 2011: PUC concludes cable telephony fits that definition
- BUT some telephone companies and services off-bounds per state law, federal law, the FCC
  - Cellular carriers
  - Paging providers
  - Interstate long distance
  - "Nomadic" voice services that let you plug into any Internet port  
(Vonage, Magic Jack, Google Voice...)

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## What We Do: Advise Gov't on Telecom Policy

- In the state "Telecommunications Advisory Board"
- In the Governor's review panel on ARRA broadband grant applications
- In General Court hearings on telecommunications law
- In regional and national groups (NARUC, NECPUC)
- In comments to Federal Communications Commission (recently, on inadequacy of satellite for broadband and voice service)

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## How We Regulate

- Range of regulatory involvement
  - *Relatively close oversight of historical monopolies*
  - *Light oversight, relying on competitive forces, for new competitors*
- Telecom is much more competitive than other utility sectors
  - *We don't get rate cases, we get "Alt Reg" cases*
    - Phone companies seldom think they can afford to raise rates: customers will leave
    - When a telco can establish that there is a competitive voice provider available across its franchise area, it can ask for "alternative regulation"

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### Spectrum of Telecom Regulation in New Hampshire

Type	Examples	Must Build to Anyone?	Must Sell Services to Competitors?	Retail Price Regulation	Other Consumer Protection	Reporting
Dominant ILEC	FairPoint	•	•	M	M	H
Rural ILEC	Granite State, Bretton Woods, Dunbarton	•	-	M	M	M
Rural ILEC Under Alternative Regulation	Hollis, Wilton, Kearsarge, Union	•	-	L	M	L
CLEC	PAETEC, segTEL, Comcast, Verizon Business, Time Warner	-	-	-	L	L
No State Regulation	Verizon Wireless, Vonage, Google Voice, MagicJack	-	-	-	-	-

More ↑  
 ↓ Less

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### How Does This Involve Broadband?

- When a broadband provider relies on telephone service as part of the business, we have some jurisdiction
- When a broadband provider wants to attach fiber and wires to utility poles, we may become involved
- Custom Agreements
  - State law orders the PUC to ensure that the "public good" is promoted in some situations
  - In the FairPoint purchase of Verizon's local business, FairPoint used a commitment to expand broadband coverage as a "public good" component

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## What's Hot?

- The FCC's "Connect America Fund" and "Intercarrier Compensation" order, November 2011
  - *To get Universal Service Funds, phone companies must commit to offer broadband throughout the funded territory*
  - *Incumbent phone companies have a "right of first refusal," if they don't bid the FCC holds a reverse auction*
  - **The good news:** *explicit requirement and funding for broadband*
  - **The bad news:** *the same dollars needed to support universal voice service last year, spread more thinly*
- Partial deregulation of telecommunications in state

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## Thank You!

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