Proposal:

Proposed House Bill 5467 was introduced for the stated purpose to “require the repair or replacement of utility poles damaged as a result of an emergency, regardless of ownership.” The bill would amend section 16-246f of the general statues “to require any qualified, first responding, domestic or foreign electric company to repair or replace a utility pole damaged as a result of an emergency, and to charge the utility pole owner fair market value for the materials used and the work performed.”

Comments:

The Southern New England Telephone Company d/b/a Frontier Communications of Connecticut (“Frontier”) appreciates the opportunity to provide comment on the proposed bill. Frontier understands the spirit in which the proposed bill is offered and supports the state’s efforts to coordinate emergency response so that utility services and infrastructure are restored in an expeditious and timely manner following significant storms and other emergency events. In recent years, the Public Utilities Regulatory Authority (“PURA”) has conducted extensive reviews of emergency planning and response efforts of the state’s public service companies in the aftermath of catastrophic storms affecting the state. PURA has also conducted an in-depth review and established a working group to review pole attachment processes and procedures, and utility pole administration. Frontier’s Emergency Response Plan for Connecticut, its operating practices and procedures for pole repair and replacement, and its management of telecommunications pole attachments, all conform with PURA’s directives that resulted from these reviews.

Frontier opposes HB 5467 because it would impose a requirement on “first responding” electric utilities that is unwarranted based on PURA’s in-depth reviews of public service company emergency plans, and that will potential hinder coordinated emergency response and prompt restoration of utility services. The measure is inconsistent with the Company’s property rights and contract rights under the joint line agreements with the state’s electric distribution companies (“EDCs”), and is unnecessary based on Frontier’s operating procedures and the coordination of those procedures with the EDCs. The bill would result in unauthorized parties performing work on telephone company property, including facilities within the communications gain, which
PURA has expressly acknowledged is the exclusive right and responsibility of the telephone company.

Frontier jointly owns approximately 770,000 utility poles in Connecticut, and shares responsibility as pole custodian throughout the state with the EDCs. Frontier’s in-state union work force performs repair and replacement work in emergency and non-emergency conditions, and the Company supplements its in-state workforce, when necessary, with Company personnel based in other states and with outside contractors. In addition, Frontier is in the process of increasing the size of this CT workforce by twenty-five percent and has entered into an agreement to obtain 23 new heavy line trucks to better serve our customers and address this type of work. As noted above, Frontier has filed its Emergency Response Plan with PURA and is fully engaged with the state’s emergency response efforts to ensure timely and safe restoration of service. During Frontier effectively coordinates emergency work with the EDCs, including a liaison directly responsible for communication with both CL&P and UI, to ensure that damaged poles are repaired safely and promptly based on the conditions, and cost responsibility is determined under the joint line agreements. Allowing third parties to repair and replace poles owned by Frontier without the authorization and oversight of Frontier creates serious concerns regarding quality control, operations, liability, record-keeping and recourse for substandard or unsatisfactory work.

In addition, HB 5467 is unnecessary because the joint pole owners have long-standing practices and contractual arrangements to address pole repairs and replacement, and the bill will impair the safe and reliable operation and integrity of the state’s vital telecommunications facilities. The bill would result in electric utility workers performing work on Frontier lines in the communications gain of utility poles, contrary to PURA’s express acknowledgement in its October 8, 2014 Order in Docket No. 11-03-07, DPUC Investigation into the Appointment of a Third Party Statewide Utility Pole Administrator for the State of Connecticut (“Order”) that “the telephone companies have expertise with managing the engineering work in the communications gain” and its conclusion that “the sole responsibility of managing the communications and electric gains continues to be that of the telephone companies and the EDCs, respectively.” Further, PURA adopted the Working Group’s recommendations that “the EDCs will not perform or arrange to have contractors perform work in the communications gain unless they have an agreement with an attacher to do so.” Frontier is concerned the above proposed legislation is contrary to PURA’s express rejection of requests by the EDCs to perform work on telephone company property and would undermine the Order. Moreover, the bill will potentially allow foreign electric companies, with which Frontier has no contractual relationship or oversight, to perform work on Frontier property and then charge Frontier a rate for that restoration that is not negotiated. It is Frontier’s strong preference to perform this work, as it has for years, with its own highly-qualified, uniquely-trained union employees who live and work in Connecticut.

Moreover, in the Third Party Administrator Docket referenced above, Frontier, the EDCs and other stakeholders are actively implementing the Order to use the NOTIFY System for all attachers, which went into effect January 15, 2015. Further, the Working Group continues to meet to explore whether the EDCs should perform additional work to “coordinate pole
replacements during emergency conditions, reduce the number of double poles and conduct shifting projects unrelated to new attachment applications.” (See Order at page 23). The Working Group is next meeting on this matter on March 2, 2015 and is required to provide recommendations to PURA no later than April 15, 2015 concerning additional work, if any, that should be performed by the EDCs as Single Pole Administrators in their respective service areas. Any legislative action that seeks to affect this ongoing effort without the oversight of Connecticut’s expert utility regulator, is premature and could negatively impact that status of this collaborative industry effort.

**Conclusion:**

Frontier opposes this bill because it is inconsistent with the Company’s Emergency Response Plan, property rights and contract rights under the joint line agreements with the EDCs. The bill is unnecessary based on Frontier’s operating procedures and the coordination of those procedures with the EDCs; will result in unauthorized parties performing work on telephone company facilities within the communications gain; and will create unpredictable liability and financial exposure where it does not exist today and which Frontier cannot mitigate. Rather than enact legislation at this time, Frontier recommends that the Committee allow the Working Group activities that are focused on pole administration to proceed at the PURA.