

Communications
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February 6, 2018

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RE: Ex Parte Notice. In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No 17-84.

Dear Ms. Dortch:

On February 2, 2018, Debbie Goldman and Brian Thorn of the Communications Workers of America (CWA) met with Travis Litman, Chief of Staff and Senior Legal Advisor to Commissioner Jessica Rosenworcel, to discuss One Touch Make-Ready (OTMR) pole attachment proposals. CWA emphasized that as the Commission considers any changes to the current pole attachment rules, concern for public and worker safety, continuity of service to existing attachers' customers, compliance with all legal requirements, including union contracts, and protecting good, middle-class jobs must be paramount.¹

CWA's discussion focused on the One Touch Make-Ready (OTMR) recommendations recently adopted by the Commission's Broadband Deployment Advisory Committee's (BDAC).² The BDAC OTMR recommendations appropriately exclude "complex" make-ready work in the

¹ See CWA Comments, *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, June 15, 2017, pp. 3-8 ("Accelerating Wireline Broadband Deployment"); CWA Reply Comments, *Accelerating Wireline Broadband Deployment*, WC Docket No. 17-84, July 17, 2017, pp. 2-5; Letter from Christopher M. Shelton, President, Communications Workers of America and D. Michael Langford, President, Utility Workers of America to Ms. Marlene Dortch, *Accelerating Wireline Broadband Deployment*; WC Docket No. 17-84 and GN Docket No. 17-83, Jan. 3, 2018 ("CWA/Utility Workers Letter"); Letter from Frank Simone, AT&T, and Debbie Goldman, CWA, to Ms. Marlene Dortch, *Accelerating Wireline Broadband Deployment*; WC Docket No. 17-84 and GN Docket No. 17-83, Jan. 16, 2018 ("CWA/AT&T Letter").

² The BDAC adopted these proposals with a friendly amendment to extend the advance notice requirement on Jan. 23, 2018. See Report of the Competitive Access to Broadband Infrastructure Working Group to the Broadband Deployment Advisory Committee, Jan. 23-24, 2018, "Make-Ready Workflow" Proposal and "One Touch Make-Ready Contractor Management" Proposal, pages 13- 18 and 19-24 ("BDAC OTMR Recommendation"). As of the date of this letter, the proposal without the friendly amendment was available on the BDAC website at <https://www.fcc.gov/sites/default/files/bdac-competitiveaccess-report-012018.pdf>.

communications space and all work in the utilities space from mandated third-party OTMR.³ However, the BDAC OTMR recommendation overreaches by authorizing third-party contractors to perform “simple” make-ready work in the communications space without advance notice to all existing attachers, without providing existing attachers the opportunity to move their equipment in a timely manner, and by giving new attachers’ contractors the authority to determine whether make-ready work is “simple” or “complex.”⁴ The BDAC OTMR recommendation defines “simple” transfers as those “where existing attachments in the communications space can be transferred without the expectation of a service outage(s) or facility damage and which do not require splicing of any communication attachment or relocation of existing wireless attachments.”⁵

The BDAC OTMR recommendation raises substantial concerns regarding safety, continuity of service, good jobs, and compliance with legally-binding union contracts. As a first matter, as CWA has repeatedly pointed out, so-called “simple” make-ready work may not be so simple, and improper work can result in heavy terminals and wires hanging without proper support, ungrounded wires, and overloaded equipment on damaged or decaying poles. Skilled, properly trained workers who know the equipment, the condition of the poles, and have proper certification can best protect the public and others who work on the equipment.⁶

It is for this reason that communications employers have signed collective bargaining agreements with CWA and other unions that give jurisdiction over make-ready work to union-represented outside plant technicians. Contrary to assertions by Google,⁷ CWA and other unions have negotiated these agreements with multiple employers, including AT&T, Verizon, and Frontier.⁸ Most disturbing, it appears that Verizon asked the Commission to eliminate through regulation what the company has agreed to in its legally-binding collective bargaining agreements with CWA.⁹ Simply put, the Commission must not adopt make-ready proposals that infringe on longstanding, legally-binding collective bargaining agreements (CBAs) and by extension violate the rights of the workers who bargained them. Respect for labor rights is not incongruous with accelerating broadband deployment and, as other commentators have stressed, concerns about delays do not justify impairment of the contractual obligations of existing attachers with CBAs.¹⁰

³ BDAC OTMR Recommendation, p. 12-18.

⁴ *Id.*

⁵ *Id.*, p. 13.

⁶ CWA Comments, *Accelerating Wireline Broadband Deployment*, pp. 3-8; CWA Reply Comments, *Accelerating Wireline Broadband Deployment*, pp. 2-5; CWA/Utility Workers Letter, Jan. 3, 2018.

⁷ Letter from Kristine Laudadio Devine, Google, to Ms. Marlene Dortch, *Accelerating Wireline Broadband Deployment*, Feb. 1, 2018

⁸ See CWA Comments, *Accelerating Wireline Broadband Deployment*, pp. 6-7; CWA/Utility Workers Letter, p.3; Comments of Frontier Communications, *Accelerating Wireline Broadband Deployment*, pp. 15-19.

⁹ Letter from Kathleen Saunders, Verizon, to Ms. Marlene Dortch, *Accelerating Wireline Broadband Deployment*, Jan. 19, 2018.

¹⁰ CWA/AT&T Letter. See also AT&T Comments, *Accelerating Wireline Broadband Deployment*, p. 17 (“AT&T values its workforce and has negotiated fair collective bargaining agreements allowing its bargained-for workforce to perform all work on AT&T’s facilities in certain parts of the country. An OMTR regime should not impair the

In the meeting, CWA highlighted additional concerns with the BDAC OTMR recommendations. The BDAC inappropriately gives the new attacher's contractor the authority to determine whether make-ready work is "simple" or "complex."¹¹ The new attacher and its contractor have every incentive to determine that make-ready work is "simple" even if it is indeed complex and could lead to service disruption, which could benefit the new attacher if customers blame the outage on their existing provider. This problem is compounded by the fact that the BDAC OTMR recommendation only requires the new attacher to provide advance notice to the pole owner (such as an electric utility), but not to all existing attachers (such as telephone, cable, or wireless providers).¹² Under this scenario, it is entirely possible that existing attachers may not even know that their equipment is being moved on a pole and therefore have no opportunity to contest the third party contractors' classification of proposed make-ready work or even more seriously, to follow up with the contractor if the work is done improperly.

CWA has indicated its support for proposals that streamline pole attachment rules.¹³ But any changes must ensure that public and worker safety, continuity of quality service to existing attachers' customers, respect for legally-binding union contracts, and protection and promotion of good, middle-class jobs in communities across the United States remain paramount.

Sincerely,



Debbie Goldman
Telecommunications Policy Director
Communications Workers of America

cc: Travis Litman

collective bargaining agreements of any existing attacher by mandating that independent contractors perform make-ready work in all situations. The unionized employees of AT&T and other, similar attachers have performed in this manner for decades, and it would be unreasonable for an OTMR rule to upset those settled, negotiated expectations and contractual obligations.") See also Comments of Frontier Communications, *Accelerating Wireline Broadband Deployment*, pp. 15-19.

¹¹ If an existing attacher is not the pole owner, it has no right to object to the contractor's determination. See BDAC OTMR Recommendation, p. 17 ("Facilitate one-touch make-ready for simple work in the communications space (including allowing the qualified contractor to make the determination as to whether the planned make-ready work is simple or complex, subject to the pole owner's right to object to such determination.").

¹² "For simple attachments, an attacher would be authorized to proceed with one-touch make-ready after providing the required notice of fifteen calendar days to the pole owner of its proposed work and its contractor of choice." There is not advance notice requirement to an existing attacher that is not the pole owner. See BDAC OTMR Recommendation, pp. 22-23.

¹³ See CWA Reply Comments, *Accelerating Wireline Broadband Deployment*, pp. 3-4; CWA/AT&T Letter, *Accelerating Wireline Broadband Deployment*, Jan. 16, 2018.