



Eric Langley
2700 U.S. Highway 280
Suite 240E
Birmingham, AL 35223
205-783-5750
eric@langleybromberg.com

March 19, 2018

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

**Re: Ex Parte Notice
WC Docket No. 17-84**

Dear Ms. Dortch:

On March 15, 2018, Mike Tautphaeus (Joint Use Manager, Ameren Missouri), Bob Hamric (Line Clearance & Construction Services Manager, Tampa Electric), George Cox (Construction Services Supervisor, Tampa Electric), Allen Bell (Distribution Support Manager, Georgia Power), Natalie Beasman (Senior Counsel, Georgia Power) and I met with Ms. Jamie Susskind, Chief of Staff and Wireline Advisor to Commission Carr.

During the meeting, we explained the need for advance notice of overloading, in order to properly engineer the new load on the pole. We explained, using the photograph attached hereto from Tampa Electric's system, that overloading is not a "one time" thing on a single messenger strand. Instead, multiple attaching entities seek to overload on multiple different occasions. The cumulative effect of the increased bundle size, along with the increase in the size of individual fiber cables, creates wind and ice loading issues. We also explained, using the chart attached hereto, that 8 of the 9 state public utility commissions to address this issue within the past 10 years have adopted some form of permitting or advance notice requirement for overloading. We asked the Commission to make clear, either through a policy statement or a new rule, that advance notice of overloading is a reasonable term/condition in pole attachment contracts. We also suggested that existing rule 1.1403(b) should serve as the presumptively reasonable time period for advance notice. We also briefly discussed strand-mounted antennas. We explained that the volumetric permissibility sought and obtained by the wireless industry in numerous state legislatures is an indicator of how the wireless industry intends to impact distribution pole lines. As such, we urged the Commission to avoid adopting any rules that short-cut the engineering process or timeline for such novel and variable facilities.

We also discussed the unique and varied infrastructure cost-sharing agreements between ILECs and electric utilities and explained why these relationships are not suited to a "one size fits all"

pole attachment rate approach as proposed in the initial NPRM. We noted that our position was not a novel one—it is the same conclusion the Commission reached based on a robust record in its 2011 order on pole attachments. We also discussed how joint use agreements facilitate broadband deployment, and how dismantling joint use relationships not only would lead to significant disputes in numerous forums but also would be disruptive to broadband deployment. We explained that, in a typical joint use relationship (if there is such a thing), the manner in which the parties share the cost of the jointly used network is tied to their relative occupancy and/or reserved space on joint use poles. We further explained that the cost sharing percentages are frequently, in turn, tied to objective pole ownership percentages such that, if each party owns its objective percentage of joint use poles (and carries the ownership costs that come with owning joint use poles) then neither party pays any “rentals” to the other. We explained that, as ILEC joint use pole ownership decreases, an electric utility’s costs increase. For this reason, we urged, it made no sense that the cause of an increase in an electric utility’s network costs would form the basis of a rule to decrease an electric utility’s network cost recovery. We also briefly addressed US Telecom’s November 21, 2017 ex parte “report.” We explained that the report not only failed to address the critical issue of the varied forms of consideration within joint use agreements (instead focusing solely on recurring adjustment payments), but also drew an irrelevant comparison between the adjustment rates paid by ILECs to electric utilities and the rates paid by CATVs to ILECs. We told Ms. Susskind that we intended to respond to US Telecom’s submission in writing in the not-too-distant future.

This ex parte notice is being filed electronically in the above-referenced docket pursuant to section 1.1206(b) of the Commission’s rules.

Very Truly Yours,

/s/Eric B. Langley

Eric B. Langley

EBL/lk

Enclosures

cc: Jamie Susskind (jamie.susskind@fcc.gov)