

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Accelerating Wireless Broadband)	WT Docket No. 17-79
Deployment by Removing Barriers to)	
Infrastructure Investment)	

To: The Commission

REPLY COMMENTS OF XCEL ENERGY SERVICES INC.

Xcel Energy Services Inc., on behalf of its public utility operating company affiliates, Northern States Power Company – Minnesota, Northern States Power Company – Wisconsin, Public Service Company of Colorado, and Southwestern Public Service Company (collectively, “Xcel Energy”) hereby submits its reply comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.¹

Xcel Energy appreciates the Commission’s efforts to streamline the Section 106 review process for pole replacements.² At the same time, however, Xcel Energy remains concerned that the Commission might limit the ability of electric utilities to replace distribution poles with taller poles in conjunction with a wireless antenna deployment.

¹ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Notice of Proposed Rulemaking and Notice of Inquiry, *FCC 17-79* (rel. Apr. 21, 2017) (“NPRM”). The Wireless Telecommunications Bureau (“Bureau”) extended the deadline for filing of Comments to July 17, 2017. *See Order*, DA 17-525 (rel. May 26, 2017).

² *NPRM* at ¶ 67-69.

Several commenters urged the Commission to adopt an exclusion from the Section 106 review process for pole replacements, including utility distribution poles, provided the replacement pole is not a substantial increase in size of the existing pole.³ Xcel Energy supports an exclusion for the replacement of utility distribution poles, but it disagrees that this exclusion should be contingent upon whether the replacement pole is not substantially larger than the pole it is replacing. The Utilities Technology Council (“UTC”) also disagreed that any exclusion for pole replacements should be conditioned upon whether the replacement pole is not substantially larger.⁴

Xcel Energy and UTC explained that utilities or third-parties may mount antennas on existing distribution poles by adding a pole-top extension to increase the height of the distribution pole.⁵ In other cases, Xcel Energy explained that a utility may replace the distribution pole with a taller pole instead of adding a pole-top extension to the existing pole.

As Xcel Energy and UTC discussed in their Comments, Stipulations V.A. and VI.A. of the Amended Collocation Nationwide Programmatic Agreement (“Amended Collocation NPA”) allow a licensee to mount an antenna on a utility distribution pole without undergoing Section 106 review, even if doing so would result in a substantial increase in size.⁶

Stipulation V.A. provides that an antenna may be mounted on a utility distribution pole without undergoing Section 106 review unless: (1) the distribution pole is over 45 years old; (2) the distribution pole is inside the boundary of a historic district, or if the antenna is visible from

³ See e.g., Comments of AT&T at 31; Comments of Crown Castle at 35; Comments of Extenet at 49; Comments of Lighttower at 15; Comments of NTCA at 14; and Comments of the Wireless Infrastructure Association at 66-67.

⁴ Comments of UTC at 13.

⁵ Comments of Xcel Energy at 16-18; Comments of UTC at 13-14.

⁶ Comments at Xcel Energy at 16-17; Comments of UTC at 14.

the ground level of a historic district, the distribution pole is within 250 feet of the boundary of a historic district; (3) the distribution pole is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places; or (4) the collocation licensee or distribution pole owner has received notification that the FCC is in receipt of a complaint that the collocation has an adverse effect on one or more historic properties.⁷

Stipulation VI.A provides that an antenna may be mounted on a utility distribution pole regardless of the age of the pole without undergoing Section 106 review unless: (1) the distribution pole is inside the boundary of a historic district, or if the antenna is visible from the ground level of a historic district, the distribution pole is within 250 feet of the boundary of a historic district; (2) the distribution pole is a designated National Historic Landmark; (3) the distribution pole is listed in or eligible for listing in the National Register of Historic Places; (4) the collocation licensee or distribution pole owner has received notification that the FCC is in receipt of a complaint that the collocation has an adverse effect on one or more historic properties; (5) the antennas and associated equipment exceeds the specified volume limits; or (6) there is new ground disturbance that exceeds the depth and width of any previous ground disturbance.⁸

Thus, a utility or a third-party licensee may collocate an antenna on an existing utility distribution pole under Stipulations V.A. or VI.A., even if doing so would result in a substantial increase in size of the existing distribution pole. Unlike Stipulations III or IV of the Amended Collocation NPA, which apply to collocations on communications towers, there is nothing in

⁷ See Stipulation V.A. of First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, 47 CFR Part 1, App. B, (“*Amended Collocation NPA*”).

⁸ Stipulation VI.A. of *Amended Collocation NPA*.

Stipulations V.A. or VI.A. that prohibits the mounting of the antenna on a non-tower structure from resulting in a substantial increase in size of the existing structure.

Because there is no substantial increase in size limit to the exemption for a collocation on a non-tower structure, it would not make sense to make an exclusion for utility pole replacements contingent on whether the replacement pole not substantially larger than the original pole. As UTC stated that, a “pole replacement is just an alternative approach to a pole top extension. There shouldn’t be two different rules for effectively the same type of structure, especially when it makes no difference visually whether the pole is a replacement pole or one that has a pole top extension.”⁹

Xcel Energy reiterates that the Commission should instead declare to the extent a wireless antenna deployment is planned in conjunction with a distribution pole replacement that is anticipated or undertaken by the utility pole owner, that deployment is considered a collocation on a non-tower structure that may be exempt from Section 106 review under Stipulations V.A or VI.A of the Amended Collocation Agreement, even if the new distribution pole results in a substantial increase in size.

⁹ Comments of UTC at 14; *See also* Comments of Xcel Energy at 16-18.

WHEREFORE, THE PREMISES CONSIDERED, Xcel Energy respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

XCEL ENERGY SERVICES INC.

/s/ Kevin M. Cookler

Kevin M. Cookler
Lerman Senter PLLC
2001 L Street, NW, Suite 400
Washington, DC 20036
T: 202-416-6749
E: kcookler@lermansenter.com

Its Attorney

Dated: July 17, 2017