

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, Southwest
Washington, DC 20554

Re: *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84*

Dear Mr. Chairman,

I am writing to you today about the Draft Order issued by the Commission on July 12, 2018, regarding rules designed to enhance broadband deployment. While FirstEnergy Corp.'s electric distribution utility operating companies in FCC states (collectively "FirstEnergy") are members of the Coalition of Concerned Utilities, and support all of its comments previously filed in this proceeding, there are a number of issues raised by the Draft Order that deserve further comment before the vote is taken August 2. The most serious of these many issues is self-help in the power space.

First, as explained in CCU's comments in this proceeding, as the owners and operators of a complex electric distribution grid it is imperative that FirstEnergy retain control of the contractors performing make-ready work in the power space. While there are many responsible telecommunications providers who can be trusted to direct contractors' efforts to follow the applicable construction and safety standards, there are also many who will apply relentless pressure to cut corners to increase speed and lower costs. Work in the communications space alone is already quite dangerous, as dozens of workers are badly injured or killed each year. It is abundantly clear to FirstEnergy through years of experience that its telecommunications provider partners simply do not place the same emphasis on safety that FirstEnergy does, and many of them do not have electrical or structural engineers on staff qualified to direct power space construction by contractors. One split-second lack of safety precautions and someone doesn't go home to loved ones that night. It is FirstEnergy's primary objective to prevent injury—not react after it occurs.

FirstEnergy places safety as our #1 priority, and reliability of electric service as #2. Allowing other companies to work on our facilities will seriously jeopardize these priorities. As for safety, FirstEnergy considers OSHA and NESC as the minimum accepted standard for safety—our Company standards often exceed these minimums in order to better protect workers and the public. Will third party self-help contractors—with whom FirstEnergy would not have privity of contract—stringently apply FirstEnergy's safety rules, for just one

example, using “glove and sleeve” for voltages above 15 kV? Many attacher comments and ex parte communications in this proceeding clearly articulate disagreement with—and outright animosity towards—any standard going above and beyond the bare minimums.

Second, even for the responsible actors, it is almost certain that third party oversight of work on electric distribution facilities will reduce reliability of the electric grid and lower the quality of electric service. It is difficult to convey the full complexity of the interconnected grid and the intricacies of coordinating work which often includes scheduled outages for pole attachment work as well as for regular electric system work. Lines are not de-energized at single poles—they are de-energized for entire circuits or sections of circuits, resulting in the deliberate or unplanned re-routing of energy flows onto other circuits. Not infrequently such re-routing implicates transmission lines as well as distribution lines, potentially affecting hundreds or thousands of customers. Without careful coordination, unplanned changes in energy flows are likely to overload circuits and may cause wider area forced outages. Further, FirstEnergy protocols provide for a longer notice of unforced outages to customers—14 days for outages affecting more than 10 customers—nearly three times an attacher’s required notice under the Draft Order. PJM requires *six months* advanced notice for scheduled outages more than four days in duration if there could be an impact on transmission lines.

Illustrating the high standard of reliability expected for electric service, the back-to-back heavy snowstorms that hit New Jersey earlier this year led numerous communities to demand faster restoration of electric service after storm events, while the only complaint about the same delays in restoring broadband seemed to be why there were no bill credits for the lack of service during outages. In every state where FirstEnergy operates, there are statutes, rules and/or standards for electric reliability performance. Electric customers should not have to pay for faster pole attachments with more forced outages of service and reduced notice of scheduled outages.

Self-help in the Draft Order strays far afield from mere attachment to electric *poles* and instead impinges safe and reliable operation of the electric *system*. FirstEnergy does not allow its own contractors to perform any circuit switching beyond a defined set of “simple switching.” Will FirstEnergy be required to accommodate self-help contractors on their schedule, or would they have the right under this order to do their own switching? There is equipment on FirstEnergy’s system, such as certain types of sectionalizing devices, with which even its own contractors simply are not familiar. Will third-party self-help contractors be forcibly permitted under the Draft Order rules to operate these devices? Contractors employed by FirstEnergy to work on its system are viewed as an extension of its own employees, and all of their work is coordinated through at least one internal employee. This goes for engineering, design, and construction. Just as important, FirstEnergy must have “visibility” of all crews working on its system, especially during outage restoration and during operational switching, for both safety and reliability reasons. Self-help in the power space under the Draft Order threatens the viability of such coordination.


Third, setting aside for now the question whether Congress has granted the Commission jurisdiction and authority to order self-help make-ready construction in the power space, FirstEnergy must seriously reconsider its willingness to increase capacity for attachers if it

means reduced control over the safe and reliable operation of its electric system as discussed above. The Draft Order power-space self-help provisions as written would force FirstEnergy to risk loss of control for every expansion of capacity to accommodate new attachments. Congress unambiguously reserved to pole owners the right to deny applications for new attachments due to a lack of capacity. Further, Congress granted the Commission jurisdiction over attachment to the *poles*, not the *electrical equipment* attached to the poles. The Commission cannot experiment with forcing FirstEnergy and other electric distribution utilities to allow telecommunications providers to functionally operate, move, or reconstruct electric wires, transformers, arrestors, cutouts, relays, insulators, and sectionalizers to increase capacity. The jurisdictional implications of expansion of Commission regulatory action from space on poles into electric operations may be of concern to state public utility commissions and the Federal Energy Regulatory Commission as well.

Finally, the coincidence of shortening the make-ready construction deadline by 30 days seems likely to increase the occurrence of missed deadlines and the likelihood of self-help power space make-ready construction, especially to the extent that storm or emergency electric service restoration efforts are not considered part of timeline performance. Together with new “stimulus” funds being earmarked for broadband and small cell deployment, the existing strained contractor resources previously noted by CCU suggests new entrants to the market who may lack industry knowledge and experience in power space engineering and construction—particularly Company-specific standards. These developments will combine to increase the complications discussed above if FirstEnergy’s direct privity of contract is precluded by FCC rules.

In closing, while FirstEnergy anticipates other issues will be raised regarding problems or unanswered questions elsewhere in the Draft Order, it views the self-help make-ready construction in the power space as nothing short of a looming disaster. At an industry conference last year on joint use, one participant commented that “It’s not a question of ‘if’ a communications worker will be injured or killed, it’s ‘when.’” With self-help make-ready in the power space, it’s not a question of if or when, but how many.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas R. Pryatel". The signature is fluid and cursive, with the first name "Thomas" and last name "Pryatel" clearly distinguishable.

Thomas R. Pryatel, P.E.
Director, Energy Delivery-Operations Services
FirstEnergy Service Company

CC:
Commissioner Michael O’Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel