

1001 G Street, N.W.  
Suite 500 West  
Washington, D.C. 20001  
tel. 202.434.4100  
fax 202.434.4646

**Writer's Direct Access**  
**Thomas B. Magee**  
(202) 434-4128  
magee@khlaw.com

July 25, 2018

**VIA ELECTRONIC FILING**

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

Re: Ex Parte Notice  
WC Docket No. 17-84  
WT Docket No. 17-79

Dear Ms. Dortch:

On July 23, 2018, Rebecca Ehrlich (Manager Engineering Design, Pepco - an Exelon Utility), Nadine Boston (Real Estate Specialist, Pepco – an Exelon Utility), and Debbie Champ (Supervisor Engineering Services, Potomac Edison – a FirstEnergy Utility), and the undersigned, representing the Coalition of Concerned Utilities, met with Jamie Susskind, Legal Advisor for Commissioner Carr, to discuss several issues raised in the draft order dated July 12, 2018 (FCC-CIRC1808-03) in the above-referenced dockets.

Also, on July 25, 2018, Nabil Benwahoud (Manager of New Business – Engineering, Pepco – an Exelon Utility), Nadine Boston (Real Estate Specialist, Pepco – an Exelon Utility), Samantha Cook (Senior Engineering Technician, Baltimore Gas & Electric – an Exelon Utility), and Michael Maronski (PECO – an Exelon Utility), and the undersigned met with Erin McGrath, Legal Advisor for Commissioner O'Reilly, Betsy McIntyre, Interim Legal Advisor for Commissioner Rosenworcel, and then with the following individuals in the Wireline Competition Bureau:

- Lisa Hone, Associate Bureau Chief, WCB (by phone)
- Daniel Kahn, Division Chief, CPD, WCB
- Adam Copeland, Deputy Division Chief, CPD, WCB
- Michael Ray, Attorney Advisor, CPD, WCB
- Deborah Salons, Attorney Advisor, CPD, WCB
- Annick Banoun, Attorney Advisor, CPD, WCB
- Matthew Collins, Attorney Advisor, CPD, WCB

The Coalition of Concerned Utilities is composed of 12 investor-owned electric utilities (Arizona Public Service Company, Consumers Energy, Eversource, Exelon Corporation, FirstEnergy Corp., Hawaiian Electric Companies, Kansas City Power and Light, NorthWestern Energy, Portland General Electric, Puget Sound Energy, South Carolina Electric & Gas, and The AES Corporation) which collectively serve approximately 31,000,000 electric customers and own approximately 12,000,000 electric distribution poles.

In its meeting, the Coalition expressed appreciation that, although the results are not ideal, several of its concerns regarding ILEC rates, overlashing and one-touch make-ready were reflected in the draft order's proposed rulings.

The Coalition then addressed two draft decisions that seem not to have been vetted properly. Both would be impractical, and would make it slower and more expensive to install new facilities, not faster and less expensive. One would potentially endanger linemen and harm the electric grid.

The first of these draft decisions would require make-ready estimates and final invoices to break down costs on a pole-by-pole basis, and to include not only electric make-ready work but also communications attacher make-ready work. We explained that electric utilities have no idea about the make-ready expenses associated with communications space make-ready work and so cannot supply that information. We added it would be inefficient and unfair to burden utilities with other attacher invoices. We also explained that utilities do not typically provide pole-by-pole make-ready estimates and final invoices. Providing such a break down would be time consuming and expensive, rendering the entire make-ready process slower and more expensive for the new attacher.

The second draft decision we discussed is the serious, potentially dangerous, and otherwise counterproductive proposal to grant an electric space self-help remedy to communications companies, allowing them to hire utility-approved (and other) contractors to perform electric space make-ready work when pole owners cannot meet the make-ready construction deadlines. We predicted this electric space self-help remedy would be available to most new attachers, as the draft order proposes to reduce the already short make-ready construction deadlines by 30 days, rendering the deadline impossible for most utilities to meet.

We explained that OSHA regulations require utility control over electric space work. This means that only the utility can perform the necessary switching and sectionalizing device work, and that utilities need "visibility" of all crews during switching activities.

## KELLER AND HECKMAN LLP

Marlene Dortch

July 25, 2018

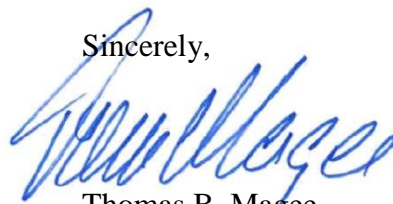
Page 3

We explained contractors beholden to communications companies could be pressured to complete work faster, not safer. We explained that new firms would be drawn to the contractor market and that communications companies are not qualified to provide them with proper guidance, training and oversight. We explained that qualified contractors already are in short supply, that communications company control would disrupt this labor market, and that electric utility work, system reliability, and system integrity would suffer. Electric utility design and inspection personnel, also in short supply, could not perform their current duties and oversee communications company activity at the same time. Inspections after the fact would often be infeasible. When they could be performed, they would be expensive and unable to uncover many hidden violations.

Communications company self-help in the electric space would be so objectionable that electric utilities would be encouraged to avoid that result by saving time on make-ready work by discontinuing the long-honored, but time-consuming, practice of expanding capacity by replacing existing poles with taller poles. If utilities were discouraged from voluntarily expanding capacity, then new wireline attachments would become considerably more difficult and expensive, new wireless attachments would lose the benefit of the taller poles utilities currently install for most requests, and the Commission's goals of promoting broadband and 5G services would be unnecessarily frustrated.

The Coalition of Concerned Utilities has sought throughout this proceeding to be part of the solution to expanding broadband and wireless services. The draft proposal for self-help in the electric space, however, is so potentially dangerous and objectionable that it would complicate that effort.

Sincerely,



Thomas B. Magee  
Attorney for the  
Coalition of Concerned Utilities

cc: Jamie Susskind  
Erin McGrath  
Betsy McIntyre  
Lisa Hone  
Daniel Kahn

## KELLER AND HECKMAN LLP

Marlene Dortch

July 25, 2018

Page 4

Adam Copeland

Michael Ray

Deborah Salons

Annick Banoun

Matthew Collins