



Pole Infrastructure Enterprise  
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July 25, 2018

*Via Electronic Filing*

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, Southwest  
Washington, DC 20554

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

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Dear Ms. Dortch:

I am submitting this writing to the Commission today on behalf of the Hawaiian Electric Companies<sup>1</sup> (the “Companies”) to comment on our electric utilities’ specific concerns about the Draft Order issued by the Commission on July 12, 2018, regarding the rules designed to enhance broadband deployment.

The Companies are active members of the Coalition of Concerned Utilities (“Coalition”) and Edison Electric Institute (“EEI”), and support all of their comments previously filed in this proceeding. We also support the Coalition’s and EEI’s in-person discussions held with the Commission and the FCC Wireline Bureau during the pendency of this proceeding. In addition to those comments, the Hawaiian Electric Companies believe it is imperative to submit this independent letter of concern regarding several aspects of the Draft Order that uniquely impact the Companies due to our isolation in the Pacific Ocean and the State-specific circumstances that complicate our ability to comply with the contemplated regulations.

The Companies serve the most isolated population center on the face of the earth, uniquely situated in the middle of the Pacific Ocean, 2,390 miles away from California, the closest mainland U.S.A. state. We are the *only* electric utility serving the islands of O‘ahu, Maui, Moloka‘i, Lana‘i and the island of Hawai‘i, each of which is their own separate electrical grid with no transmission ties to each other. The Companies are proud to maintain five separate robust, thriving, reliable electric utility grids as we continue to honor our State’s commitment to be 100% renewable by 2045. The Companies have taken a bold stance in Hawai‘i, serving as an inviting building block and foundation in the deployment of broadband, CableTV, internet, telephone, IoT, smart grid, and smart cities. Hawai‘i’s isolated islands, yet thriving population and tourism, demands faster, smarter devices to not only live their daily lives, but to push Hawai‘i to the forefront of technology advancement and the continued building of smart,

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<sup>1</sup> The Hawaiian Electric Companies are comprised of Hawaiian Electric Company, Inc., Hawai‘i Electric Light Company, Inc. and Maui Electric Company, Limited.

sustainable, and resilient communities. Hawai‘i already serves as a world-class test bed for renewable energy technologies and devices. Because of Hawai‘i’s commitment to 100% renewable energy our Companies demand real-time data collection to smooth voltage and maintain the highest level of reliability, and that is dependent on 5G network deployment. Our logistical constraints and isolation from the U.S. mainland necessitate this letter describing our unique concerns with the Draft Order in its current form.

## **1. Parties Agree To Collective License Agreement for Hawai‘i**

**We Request Clarity Regarding Private-Negotiated Solutions:** The Companies and the representing attachers in the State of Hawai‘i have embarked on a collective pole attachment licensing agreement, engineering standards, and application process over the last eight months. We have collaborated with a variety of internal and external stakeholders, received input, adjusted protocols and worked together to ensure all third party pole attachers on distribution poles are treated fairly and held to similar standards, and that the attachment process in Hawai‘i is transparent, efficient, and timely. We appreciate the Commission’s comments at the onset of the Draft Order encouraging parties to “reach bargained solutions that differ from our rules”. We also appreciate that the Commission recognizes that each state, or utility’s service territory may have distinct situations and/or distinct community needs that require a departure from the Draft Rules. As thoughtfully laid out below, Hawai‘i is extremely unique in a variety of ways that are not necessarily contemplated in the proposed Draft Order. Given Hawai‘i’s unique circumstances, and the fact that we have been collaboratively working with the attachers for the past year to come up with a solution that is appropriate for Hawai‘i and its distinctiveness, we seek clarification and request a more concrete position by the Commission as to its “encouragements”.

The Companies request that the Commission expressly provide, in the Rules themselves, for fair, transparent, negotiated contractual agreements to control in the event of conflict with the Commission, even if a complaint is later brought to the Commission. We presume, as has been the case in the past, that if a complaint is brought, the Commission would apply the rules set out in this Draft Order, as opposed to the contractually agreed to terms by the complainant. We ask that the Commission expressly provide that where parties have reached bargained solutions that differ from the Draft Order, especially in distinct circumstances and in unique communities, and where those negotiated agreements were entered into after circulation of the Draft Order, the terms of a collaborative, negotiated agreement control.

## **2. Unique Island Logistics Require Flexibility In The Make-Ready Timeline**

**Pole Shipping & Inventory Constraint:** Every distribution pole erected in Hawai‘i is barged or shipped from the mainland. There are no independent pole manufacturers located in the State of Hawai‘i. Shipping schedules often have long, fixed lead times that become even more inflexible and pose further delays during inclement weather conditions, turbulent seas, or port labor issues. We are beholden to the sea, unpredictable weather patterns, and shipping protocols. Even our inventory yards are constrained by limited acreage to house electric distribution poles of various heights and widths. Due to these warehousing spatial constraints, the Companies forecast our inventory well in advance, and order poles based on our needs for regular maintenance and

system upgrades, traffic-related replacements, and emergency replacements due to tropical storms, hurricanes or other events. Pole shipments are scheduled to keep a maximum stock level at the yard to meet these current needs. These forecasts do not take into account pole replacements needed for wireline and wireless attachments, as those needs are not known until an application is received. Hawai'i cannot merely use emergency stock on hand at the risk to supplying reliable power to the people, businesses and visitors of Hawai'i. The Companies are a fervent supporter and advocate for broadband, wireline and wireless deployment throughout the State and have negotiated over the last several months with ILEC, CLECs, and Cable TV, to provide an ambitious, streamlined process for an aggressive rollout of attachments on distribution pole infrastructure across all five islands. However, reasonable accommodations must be permitted and real world practical extensions of the Draft Order timelines are necessary for Hawai'i, particularly when a pole replacement is required.

**Existing Heavily Loaded Poles Are Prevalent:** Because of the finite commercial and residential space on our five islands, existing poles are heavily loaded. We have vast amounts of unlivable space, and the locations we do inhabit continue to be more congested; building up, not out. Our densely-populated neighborhoods experience heavy overloading on a majority of our electric distribution poles, already creating potentially hazardous situations of leaning poles, which, if uncorrected, have caused the poles to fall and disrupt power and communication service, as well as damage to property. While we appreciate the advance notice requirement proposed in this Draft Order for overloading, the Companies urge the Commission to require a pole loading analysis be provided at the time of notification by the requesting attacher, and that an appropriate amount of time be given for the utility to review such analysis. The Companies construe the proposed language regarding engineering studies and analysis as putting the onus on the utility to perform the survey, as well as the pole loading analysis, within 15 days of the attacher's notification of overloading. The overloading request just from one single attacher can contain hundreds of poles, in addition to the Companies concurrently handling other attachers' pole attachment and overloading requests. The Companies strongly feel that the attacher should bear the burden of conducting the survey and pole loading analysis and submit this with the notice of overload. Utilities would then have sufficient opportunity to review and ensure public safety and electric distribution reliability.

**Transitioning Away From Joint Ownership Model:** The Companies' five service territories are in the process of transitioning away from a Joint Ownership/Joint Use business model to a Sole Ownership/Joint Use model. The Companies have an active docket before the Hawai'i Public Utilities Commission to purchase Hawaiian Telcom, Inc's ("Hawaiian Telcom") joint pole interest in electric distribution poles, which is a major step in the conversion process. Through sole-ownership and management of the entire pole, the Companies can streamline and accelerate the attachment process as well as spearhead the removal of 15,000 "double poles" that exist in our State. This is a new role for the Companies, as Hawaiian Telecom has acted as the manager of the communication space for over 50 years. During this ownership and management transition period of attachments in the communication space, the Companies and Hawaiian Telcom have unearthed a variety of discrepancies in standards and a lack of attachment data, record keeping, and notifications to the Companies that was required, but not provided.

The Companies are facing an unwieldy task of cleaning up the pole attachment data on roughly 120,000 electric distribution poles jointly owned by the Companies and Hawaiian Telcom. Cleaning this data in the communication space will allow the Companies to notify and communicate with existing and future attachers in a much more efficient manner regarding applications and Make Ready work. The process of collecting accurate data about the pole attachments will take approximately three years as there are currently many unidentified and potentially illegal attachments, as well as attachments in disrepair or abandoned in the communication space. Additionally, the vast majority of wireline attachments are unmarked and the attachment information to being provided to the Companies is in a paper format for all but three years of attachment data. In order to assist these efforts, the Companies have contracted for a new database program to collect data moving forward and to process attachment requests from initial intake through construction and final inspection. The database program will have an initial basic rollout 4<sup>th</sup> quarter of 2018, with full capability integration during the third quarter of 2019, while data continues to be cleansed and verified. Our ability in the interim to adhere to a compressed Make-Ready timeline is extremely difficult when ownership and detailed information on existing attachments is not readily available.

**Hawai'i PUC Mandates Notice & Comment Period:** The Hawai'i Public Utilities Commission has ordered the Companies provide a notice and comment period to affected residences and neighborhood boards in certain situations when the Companies replace a pole with a taller or wider pole in a residential area. This notice and comment period (a minimum of twenty days) constrains the Companies' ability to perform Make-Ready work, and depending on if comments are received from the notice and whether a community appeal is requested and Hawai'i Public Utilities Commission action filed, the time elapsed could extend well beyond the proposed Make-Ready timelines.

### **3. Self Help Strains An Already Limited Qualified Contractor Pool**

**Self Help Will Not Speed Up Broadband Deployment In Hawai'i:** As with pole inventory, Hawai'i's isolation in the middle of the Pacific Ocean require contractors, their trucks and their equipment to arrive by plane or ship/barge; again beholden to the sea, the weather, and the shipper's schedule. The qualified workforce necessary to work in and above the communication space is extremely limited on O'ahu, and is exceptionally difficult to find in Maui, Moloka'i, Lana'i and the island of Hawai'i. Of course, the Companies employ qualified workers to work in the electric space, and thus highly prefer to be the ones working in that space. When times require additional help or during emergency situations, the Companies do have three approved contractors to turn to for assistance; however, none of them are headquartered in Hawai'i. Most of the contractors must arrange to travel to Hawai'i to perform the work, and all of their related equipment and trucks must be shipped to Hawai'i. The Self Help initiative proposed by the Commission does not speed up deployment in Hawai'i because the manpower and logistics to get them to Hawai'i are time-consuming, require extensive planning, and too expensive unless the attachers guarantee a consistent steady flow of work. Even then, trucks would most likely be housed on O'ahu, and similar difficulties would continue to exist in scheduling contractors to work on the other four islands in the Companies' service territories.

**Self Help Imposes Grave Concern On Isolated Grids:** As other electric utilities have so alarmingly pointed out, Self Help in the electric space imposes grave risk to the safety and reliability of the electric system. As with all electric utilities, our core mission is to provide safe and reliable electric service to our customers. While we appreciate that all electric utilities rightfully recognize the severity of the risk imposed with the proposed rule, the Companies believe the safety and reliability risks that could potentially transpire under Self Help in the electric space is *magnified ten-fold for our isolated islands with isolated electric grids*.

#### **4. Pole By Pole Make-Ready Estimates & True-Up Requirements Are An Onerous Burden**

**True-Up Unnecessary:** The extensive amount of work in creating pole by pole Make-Ready estimates and true-ups in the electric space, with an obligation on the utility of coordinating estimates and true-ups from existing attachers for Make-Ready work outside the electric space on a per pole basis, is highly burdensome and a burdensome cost in light of the current practices at the Companies. Cost estimates are agreed to as part of the Make-Ready process. The new attacher, in agreeing to the cost estimate, has an opportunity to question charges at that stage in the process. Utilities, existing attachers and new attachers all have the opportunity to agree to be bound by that estimate (which ultimately the new attacher accepts in the process), and no true-up should be required. The new attacher can request a pole by pole estimate if in dispute with the estimate. Providing a pole by pole estimate would slow down telecommunications deployment efforts. It also creates a paperwork/billing bottleneck for true-up. An extensive reconciliation would be required, on a pole by pole basis, with the utility involved in disputes on the estimates between the new and existing attachers.

#### **5. Requests On Miscellaneous Items**

**Effective Date:** We request the Commission to state a date certain that the Draft Order become effective, and provide a one year period to comply with the proposed new rules. Hawai'i's unique circumstances will make it extremely difficult to implement such rules with an effective date any shorter than one year from publication in the Federal Register. The attachers and contractors doing business in Hawai'i may also find that their unique experiences, requirements, processes require the parties to agree to terms different than what is being proposed by the Commission (i.e. both parties agreeing to rely on Make-Ready estimates instead of actuals).

**Pre Existing Violations:** The Companies agree that new attachers are not responsible for the costs associated with fixing pre-existing violations of other attachers, but reference is made to poles at page 52, paragraph 112 of the Draft Order. The Companies request clarification of the insertion of poles into that compliance directive. In the event a pole is deemed overloaded, inadvertently occurring earlier through another attachment, the new attacher should be responsible for the costs. In this scenario, the old attacher would only have been required to bring the pole up to standard of max capacity, thus the new attacher would have paid the costs it is now presented with for a new pole.



The Companies appreciate the time and effort the Commission and all stakeholders have dedicated throughout this proceeding. Through the Coalition, EEI, and the internal and external stakeholders here in Hawai'i, the Companies have been active in advancing the deployment broadband, CableTV, internet, telephone, IoT, smart grid, and smart cities throughout the islands of Hawai'i. We are here to assist in that deployment, but believe the Companies' unique position in the Pacific Ocean warrants a closer look at how the parties, stakeholders, and communities in Hawai'i can realistically and efficiently achieve such success.

Sincerely,

A handwritten signature in black ink, appearing to read "Mindy E. Hartstein". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mindy E. Hartstein  
Director, Pole Infrastructure Enterprise  
Hawaiian Electric Company, Inc.