



July 26, 2018

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street, SW
Washington, DC 20554

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

Dear Ms. Dortch:

On July 23, Debbie Goldman of the Communications Workers of America (CWA) met with Elizabeth McIntyre, legal advisor to Commissioner Jessica Rosenworcel, to discuss the Commission's One Touch, Make Ready (OTMR) Pole Attachment Draft Order.¹ At the meeting, CWA provided the attached material.

CWA represents outside plant technicians who perform make-ready work for incumbent local exchange carriers. Our members are on the front-lines of this work and best understand how to ensure that the work is done in a safe and reliable manner.

Ms. Goldman explained that pole attachment work is complex and, if done incorrectly, can lead to dangerous conditions for workers and the public. In the communications space, unskilled work could leave heavy cables and terminals hanging without proper support. Ungrounded wires could cause electrocution risks. Incorrect placement or overloading equipment on damaged or decaying poles could lead to poles falling into private property or the public right-of-way.

Even so-called "simple" make-ready work – as defined in the Pole Attachment Draft Order – is not so simple.² Ms. Goldman shared photographs of pole attachment work, detailing the dangerous mistakes made by contractors in Louisville, KY, where an OTMR ordinance is in place. Ms. Goldman explained

¹ *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Draft Third Report and Order, WC Docket No. 17-84 ("Pole Attachment Draft Order").

² The Draft Pole Attachment Order defines simple make-ready work in the communications space as make-ready where "existing attachments in the communications space of a pole could be transferred without any reasonable expectation of a service outage(s) or facility damage and does not require splicing of any existing communication attachment or relocation of an existing wireless attachment." Pole Attachment Draft Order, para. 17 citing the Broadband Deployment Advisory Committee (BDAC) January 2018 Recommendations, p. 20 ("BDAC January 2018 Recommendations").

how shoddy work by inexperienced contractors can threaten worker and public safety and lead to service problems.³

Equipment improperly attached to a pole or failure to ground wires could result in serious facility damage, such as falling cables, as well as service outages and dangers to the public and to telecommunications employees. CWA believes that all pole attachment transfers, if done incorrectly, can result in facility damage, service outages, or endanger workers and the public.

Ms. Goldman emphasized that the goal of accelerating broadband deployment, which CWA supports, must not sacrifice network reliability and public and worker safety by allowing poorly trained, high turnover contractor employees to move existing attachers' equipment. Based on CWA members' experience observing multiple examples of the poor quality of work performed by contractors in the field, she noted that it will be practically impossible to enforce the provisions in the Pole Attachment Draft Order designed to ensure that only "qualified" contractors work on existing attachers' equipment. Contractors do not have the same incentives as existing attachers' employees to perform the work safely and correctly.

Ms. Goldman pointed out that if a contractor does shoddy work, it may take some time and expense to identify the problem and then require the new attacher to require the contractor to repair the problem. In this case, the new attacher has little incentive to repair the problem in a timely fashion. During this time, the public and existing attachers' employees may be at risk and customers could experience outages.

Ms. Goldman noted that the Pole Attachment Draft Order's prohibition on allowing existing attachers to move their own equipment, even within the streamlined timeline that CWA and others have proposed, would invalidate private contracts negotiated between CWA and AT&T, Verizon, and Frontier. CWA has collective bargaining agreements (CBAs) dating back many decades that give jurisdiction over make-ready work to CWA-represented employees.⁴ These CBAs ensure that well-trained employees who are directly accountable for their work perform the job properly and safely. CWA-represented technicians earn good family-supporting wages and benefits. In contrast, contractors advertise lineman positions for \$15-19 per hour – about 40 percent less than the earnings of a union field technician.⁵ Commission OTMR policy should not overturn privately negotiated contracts between telecom companies and the union that represents its employees. Nor should Commission OTMR policy have the effect of replacing collectively bargained family-sustaining middle-class jobs with low-wage contractor jobs.

Ms. Goldman pointed out that throughout this proceeding, CWA has emphasized the importance of respecting these privately negotiated contracts by allowing existing attachers to move their equipment where collective bargaining agreements give jurisdiction over the work to CWA-represented *employees*.

³ For a detailed description of the photographs, *see* Letter from Ms. Debbie Goldman, CWA Telecommunications Policy Director to Ms. Marlene Dortch, Secretary, FCC, WC Docket No. 17-84, May 23, 2018, p.2.

⁴ These include CWA collective bargaining agreements with AT&T Southeast, Verizon NY, and Frontier WV. *See* CWA Comments, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84 (June 15, 2017) pp. 3-7; CWA Reply Comments, WC Docket No. 17-84 (July 17, 2017) pp. 2-5; Letter from Christopher M. Shelton, CWA President, and D. Michael Langford, Utility Workers of America President to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 17-84, GN Docket No 17-83 (Jan. 3, 2018) p. 2.

⁵ Glassdoor website job listing, visited May 17, 2018.

We have not made any recommendation that would address the issue of union *contractors*, as incorrectly described in paragraphs 43-46 of the Pole Attachment Draft Order.

To correct this misunderstanding in the Pole Attachment Draft Order, CWA strongly urges the Commission to correct the language of the final sentence in paragraph 46 to read “employees” rather than “contractors” and to affirm provisions of existing CBAs. The corrected final sentence in paragraph 46 should read: **“Nothing in our adoption of an OTMR regime should be construed as preventing an existing attacher from using union *employees* pursuant to an applicable CBA on pole-related work.”**

To protect public and worker safety, good jobs, and privately negotiated contracts between existing attachers and the union that represents their employees, CWA recommends the following minor changes to the Pole Attachment Draft Order that would result in a balanced proposal to safely streamline the pole attachment process.

1. **Streamline the current pole attachment timeline for “simple” make-ready work.** CWA supports the Pole Attachment Draft Order’s requirement for 15 days for application review and survey followed by the BDAC’s recommendation of 25 days for simply make-ready work, with additional time for large orders. The time periods should not run concurrently.⁶
2. **Provide existing attachers a streamlined timeline to complete so-called “simple” make-ready work.** All make-ready work – if done improperly – has the potential to cause facility damage, service interruption, and danger to the public and workers. Therefore, CWA recommends that Commission rules allow existing attachers to transfer their equipment during this time period prior to self-help. Allowing existing attachers to perform the work during this streamlined time period will have no negative impact on accelerating broadband deployment and could actually accelerate deployment by properly aligning incentives to perform the work safely and properly, eliminating wasteful and costly repairs to correct contractors’ shoddy work.
3. **Protect good jobs and honor private contracts between carriers and the union that represents their employees.** The Commission must ensure that any OTMR regime honor collective bargaining agreements, thereby preserving good jobs in hundreds of local communities. As noted above, to address the issue, CWA strongly urges the Commission to correct the language in the final sentence in paragraph 46 of the Pole Attachment Draft Order to read “employees” rather than “contractors” and to affirm provisions of existing CBAs. The corrected final sentence in paragraph 46 should read: **“Nothing in our adoption of an OTMR regime should be construed as preventing an existing attacher from using union *employees* pursuant to an applicable CBA on pole-related work.”**
4. **Provide existing attachers the right to object during the survey period to a determination that make-ready work is “simple.”** As other commentators have noted,

⁶ BDAC January 2018 Recommendations, p.23.

utilities do not have the expertise to determine whether make-ready work is “simple” or “complex” in the communications space.⁷

- 5. Provide existing attachers the right to disqualify a contractor who has been previously terminated for poor performance or violations of local, state, or federal regulations, including labor law violations.**
- 6. Ensure reimbursement of any of the costs incurred by an existing attacher that are attributable to make-ready by a new attacher, including the cost of being present at any field inspection conducted as part of the new attacher’s surveys and OTMR work.**
- 7. Require new attachers to indemnify existing attachers for liability attributable to outages caused by a new attacher that chooses OTMR.**
- 8. Ensure the right of an existing attacher or the union representing employees of the existing attacher to file a complaint against a new attacher for failure to meet its obligations under the Commission’s rules.**

Sincerely,



Debbie Goldman
Telecommunications Policy Director
Communications Workers of America

cc: Elizabeth McIntyre

⁷ See Letter from Steven F. Morris, Vice President & Associate General Counsel, NCTA to Ms. Marlene Dortch, July 23, 2018; Letter from Frank S. Simone, Vice President Federal Regulatory, AT&T to Ms. Marlene Dortch, July 23, 2018.