



WASHINGTON, DC

**Kevin M. Cookler**  
202.416.6749  
kcookler@lermansenter.com

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VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Ex Parte, Accelerating Wireless Broadband Deployment by Removing  
Barriers to Infrastructure Development; WT Docket No. 17-79**

Dear Ms. Dortch:

The WEC Energy Group, Inc. (“WEC Energy Group”) has been an active participant in the above-referenced proceeding.<sup>1</sup> The WEC Energy Group supports the goal expressed by the Federal Communications Commission (“Commission” or “FCC”) in the Draft Report and Order to streamline the build-out of next generation wireless facilities by eliminating the need for historic preservation review for the construction of replacement utility poles.<sup>2</sup>

However, the WEC Energy Group is concerned that the proposed language could instead complicate the pole replacement process and would have a significant effect on utility pole owners.<sup>3</sup> As discussed in greater detail below, the WEC Energy Group recommends the following changes to the proposed exclusion for utility pole replacements that support antennas:

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<sup>1</sup> See Comments of WEC Energy Group, Inc., WT Docket No. 17-79 (filed June 15, 2017). The WEC Energy Group is also a member of the Utilities Technology Council (“UTC”) and Edison Electric Institute (“EEI”) and supports their comments.

<sup>2</sup> *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Draft Report and Order, FCC-CIRC1711-03 (rel. Oct. 26, 2017) (“*Draft Replacement Utility Poles Report and Order*”).

<sup>3</sup> It would also be contrary to the intent of recent Executive Orders that direct federal agencies to streamline reviews for infrastructure and energy projects. See Exec. Order No. 13783, Promoting Energy Independence and Economic Growth, 82 Fed. Reg. 16093 (Mar. 31, 2017); See Exec. Order No. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure, 82 Fed. Reg. 40463 (Aug. 24, 2017).

- The exclusion should apply where the replacement pole is no more than thirty (30) feet from the original pole and any associated ground disturbance is either no more than thirty (30) feet from the original pole or within the footprint of the right-of-way designated for above-ground utility distribution lines.
- The exclusion for utility pole replacements should not be contingent upon limiting the height of the replacement pole. Alternatively, the WEC Group suggests either of the following – a replacement utility pole should be excluded if (1) it is limited to 50 feet or 10 percent taller than the original pole, whichever is greater; or (2) the replacement pole does not increase the height by more than 10 percent or 10 feet above the height of the original pole, whichever is greater.
- A replacement utility pole made of steel should be considered to be the same quality and appearance as a wood pole so that replacing a wood utility pole with a pole made of steel does not automatically require Section 106 review.

The draft of proposed Rule 1.1320(b)(3) provides that a replacement utility pole must be located within the same hole as the original pole and cannot entail new ground disturbance (either laterally or in depth) outside previously disturbed areas.<sup>4</sup>

However, the typical operating procedure for the WEC Energy Group for replacing a utility distribution pole is as follows – (1) the replacement utility pole is set in the ground next to the existing utility pole; (2) the existing distribution lines and other cable and telecommunications attachments are transferred to the new pole; and (3) the original pole is removed only after all of the attachments are transferred to the new pole.

A typical utility distribution pole supports power lines and other electric distribution plant, as well as attachments by cable television systems and telecommunications providers (including wireless antennas in some cases). In order to safely ensure that there is little to no disruption of existing electricity or other services provided by the utility or telecommunications and cable attachments, the new pole is set side-by-side with the original pole so that the existing facilities can be transferred to the replacement pole. A pole replacement is a carefully managed process. It is not as simple as removing the existing utility pole and building a replacement pole in the exact same hole as the original pole. While in theory it may be possible to place a new utility pole in the same hole, it may still also involve the construction of temporary facilities to allow for safe working conditions, creating additional soil disturbances and longer electric outages to customers.

If the Commission intends to adopt an exclusion for a utility pole replacement, the WEC Energy Group suggests that the exclusion apply where the replacement pole is no more than thirty (30) feet from the original pole and any associated ground disturbance is either no more than thirty (30) feet from the original pole or within the footprint of the right-of-way designated

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<sup>4</sup> *Draft Replacement Utility Poles Report and Order*, ¶ 10.

for above-ground utility poles.<sup>5</sup> The WEC Group submits that construction of a replacement utility pole side-by-side with the original pole within an existing right-of-way where there are already other utility poles has no potential to affect historic properties.

In addition, the draft of proposed Rule 1.1320(b)(3) states that the replacement pole cannot exceed the height of the original pole by more than ten percent of the height of the original pole.<sup>6</sup> In the *Draft Replacement Utility Poles Report and Order*, the Commission indicates that utility poles are typically 25 to 40 feet tall and finds that a 10 percent increase in height of such a pole (*i.e.*, an increase of 2.5 to 4 feet) would have no potential to affect historic properties.<sup>7</sup>

The WEC Energy Group notes that pole heights are standardized in five foot increments so it is unlikely that a replacement utility pole would result in an increase of 2.5 to 4 feet compared to the original pole. Furthermore, a utility must ensure that there is adequate clearance between the proposed antenna and other equipment on the electric distribution facility. These minimum clearances are required in order to ensure the safe maintenance and operation of the electric distribution system.

The WEC Energy Group supports the comments previously filed in this docket stating that an exclusion for utility pole replacements should not be contingent upon whether the pole replacement is no more than ten percent taller than the original pole.<sup>8</sup> Xcel Energy Services Inc. (“Xcel Energy”) noted that a licensee may collocate a wireless antenna on an existing utility pole without undergoing review, even if doing so would result in a substantial increase in size of the existing pole, so long as it meets all of the criteria in Stipulations V.A or VI.A of the Amended Collocation NPA.<sup>9</sup> The WEC Energy Group agrees with the Utilities Technology Council

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<sup>5</sup> See, *e.g.*, Comments of Verizon at 55, WT Docket No. 17-79 (filed June 15, 2017) (recommending that non-tower poles be excluded from review if among other things, (1) the replacement pole is in the same location, meaning no more than 30 feet from the original location, and (2) the project does not involve excavation more than 30 feet from the original pole location, or, if the project is located within an existing right-of-way, the project footprint remains within the boundaries of the right-of-way) (“Verizon Comments”). This would be consistent with the exclusion for replacement towers in the Nationwide Programmatic Agreement, which states that any associated excavation must be undertaken within 30 feet of the existing site boundaries.

<sup>6</sup> *Draft Replacement Utility Poles Report and Order*, ¶ 10.

<sup>7</sup> *Draft Replacement Utility Poles Report and Order*, ¶ 18.

<sup>8</sup> Comments of Utilities Technology Council at 13-14, WT Docket No. 17-79 (filed June 15, 2017) (“UTC Comments”) (supporting an exemption for pole replacements, but opposing a height limitation on the replacement pole); <sup>8</sup> Comments of Xcel Energy Services Inc. at 16-18; WT Docket No. 17-79 (filed June 15, 2017) (“Xcel Energy Comments”); Reply Comments of Xcel Energy Services Inc., WT Docket No. 17-79 (filed July 17, 2017) (“Xcel Energy Reply Comments”).

<sup>9</sup> Xcel Energy Comments at 16; Xcel Energy Reply Comments at 2-4.

(“UTC”) 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.”<sup>10</sup>

Alternatively, to the extent the Commission believes it is necessary to limit the height of a replacement utility pole under the proposed exemption, the WEC Energy Group believes that alternative proposals may be viable solutions.<sup>11</sup> AT&T proposed that a replacement utility pole located in a right-of-way be excluded if it is limited to 50 feet or 10 percent taller than the original pole, whichever is greater.<sup>12</sup> Verizon recommended that non-tower replacement poles be excluded if the replacement pole does not increase the height by more than 10 percent or 10 feet above the height of the original pole, whichever is greater.<sup>13</sup> The WEC Energy Group submits that replacing a 35 foot utility pole with a 45 foot pole would not have any adverse effect on historic properties and should be excluded from Section 106 review.<sup>14</sup>

The draft of proposed Rule 1.1320(b)(3) also states that the replacement pole must have an appearance that is consistent with the quality and appearance of the original pole. Aging wood utility distribution poles are sometimes replaced with poles made of steel. The WEC Energy Group urges the Commission to clarify that a replacement utility pole made of steel should be considered to be the same quality and appearance as a wood pole so that replacing a wood utility pole with a pole made of steel does not automatically require Section 106 review.

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<sup>10</sup> UTC Comments at 14.

<sup>11</sup> The WEC Energy Group notes that pole replacements that involve increases in height will also lead to minor changes in the circumference and diameter of the pole. The standards for pole circumference and the depth of pole setting vary depending on the class, height, and material of the pole. While each pole replacement is done on a case-by-case basis, as one example, an increase in 10 feet for a given wood pole may lead to an increase in circumference of approximately several inches. If the pole replacement involves an upgrade in the class of the pole or a change in the material of the pole, it would also affect the change in circumference and diameter of the replacement pole.

<sup>12</sup> Letter from Colleen Thompson, AT&T to Marlene H. Dortch, Secretary, Federal Communications Commission, Presentation at 4; WT Docket No. 17-79 (filed Aug. 21, 2017) (“AT&T Ex Parte”).

<sup>13</sup> Comments of Verizon at 55, WT Docket No. 17-79 (filed June 15, 2017).

<sup>14</sup> When the Commission refers to the height of the replacement pole in the draft proposed rule, it is unclear whether the Commission means the height of the replacement pole itself without appurtenances or the height of the pole plus appurtenances, such as any wireless pole-top attachments which may extend above the height of the pole. The WEC Energy Group recommends the Commission clarify that the definition refers to the height of the pole, not including any appurtenances.



Finally, the WEC Energy Group supports the comments that were previously filed in this docket that if a collocation on a replacement non-tower structure, such as a replacement utility pole, qualifies for exclusion under Stipulations V.A. or VI.A of the Amended Collocation NPA, the pole replacement is not subject to review.<sup>15</sup> If a wireless antenna deployment is planned in conjunction with a distribution pole replacement that is anticipated or undertaken by the utility pole owner, the deployment of the wireless antenna should be eligible for the exemptions that apply to a collocation on a non-tower structure under Stipulations V.A. and VI.A. of the Amended Collocation NPA.

Pursuant to Section 1.1206 of the Commission's Rules, a copy of this letter is being filed electronically in the above-referenced docket.

Very truly yours,

/s/ Kevin M. Cookler

Kevin M. Cookler, Esq.  
Lerman Senter PLLC  
Counsel to WEC Energy Group, Inc.

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<sup>15</sup> See Xcel Energy Comments at 17 (“The fact that the utility will be installing a taller pole in conjunction with mounting an antenna does not change the fact that the underlying structure (the new utility pole) is still being primarily used to support utility distribution facilities.”); Letter from Keith C. Buell, Senior Counsel, Sprint Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission at 2; WT Docket No. 17-79 (filed Oct. 26. 2017).