



Edison Electric
INSTITUTE

Power by Association™

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

Re: Ex Parte Communications--WT Docket No. 17-79

Dear Ms. Dortch:

This letter is written on behalf of the Edison Electric Institute ("EEI") pursuant to Section 1.1206 of the Commission's Rules in connection with the Public Draft of the Federal Communications Commission's ("Commission" or "FCC") Report and Order in WT Docket No. 17-79, which is scheduled to be considered by the Commission at its November 2017 Open Meeting ("Draft R & O").¹

EEI is the trade organization that represents all U.S. investor-owned electric companies and its members provide electricity for 220 million Americans, operate in all 50 states and the District of Columbia. As providers of electricity to much of America and as owners of a considerable amount of utility poles across the United States, EEI members have considerable expertise in matters concerning the deployment and maintenance of utility owned electric poles and the interlocking state and federal regulatory schemes concerning utility poles. Furthermore, EEI members have a strong interest in ensuring that the Commission's proposals for pole attachment reform and broadband deployment properly consider the interests of EEI's members and their customers.

In the Draft R & O, the Commission proposes to eliminate the requirement for historic preservation review where utility poles are replaced with substantially identical poles that can support antennas or other wireless communications equipment, and to consolidate the Commission's historic preservation review rules into a single rule. In particular, the FCC proposes to adopt a rule that would exclude from Section 106 review the construction of replacement utility poles to support antennas are if the replacement pole: will be located within the same hole as the original pole; will not exceed the height of the original pole by more than 10 percent; will have an appearance consistent with the quality and appearance of the original pole; and will cause no new ground disturbance (either laterally or in

¹ See Draft Report and Order in WT Docket No. 17-79 (October 26, 2017)

depth) outside previously disturbed areas, including disturbance associated with temporary support of utility, communications, or related transmission lines.²

While EEI generally agrees with the Commission that historic preservation review is unnecessary in those situations where utility poles are replaced with substantially identical poles, the proposal as set forth by the Commission is problematic because it does not reflect common utility practice in a number of ways. For example, a replacement pole does not usually go in the same hole as the original because typical operating procedures are to place new poles next to the existing pole, transfer the lines and attachments, and then remove the original pole. A replacement pole will likely require new ground disturbance because of the need to set the new pole next to the existing pole. A replacement pole will typically require a height increase greater than 10 percent because pole heights are standardized in 5 foot increments and because of clearance requirements. As an example, if a 35 foot pole is replaced, the new pole will likely be either 40 or 45 feet so the height increase would be more than 10 percent. Finally, utilities sometimes replace wood poles with steel poles so the new poles may not have the same appearance as the original poles.

Instead, a utility pole replacement should be excluded from the requirement for historic review 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 poles.

Moreover, any exclusion for utility pole replacements should not be contingent upon limiting the height of the replacement pole. Alternatively, to the extent that the Commission does decide to adopt a height limitation rule, replacement utility poles located in right-of-ways should be excluded from historic review, for example, either: (1) if limited to 50 feet or 10 percent taller than the original pole, whichever is greater³; or (2) 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.⁴ Further, replacing a wood pole with a steel pole should not trigger the need for Section 106 review.

The Commission can take these actions because the above-referenced replacement poles will have little to no effect on either the environment or historic properties. Moreover, adoption of these proposals would have the effect of removing even more needless and costly burdens and speeding the deployment of broadband.

Respectfully submitted,

² *Id.* at 5.

³ *See e.g.*, AT&T Ex Parte letter dated August 21, 2017 (WT Docket 17-79).

⁴ *See e.g.*, Verizon Ex Parte letter dated November 6, 2017 (WT Docket 17-79).

EDISON ELECTRIC INSTITUTE

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