

telecommunications industry. The Commission's role, in the context of its proceedings in Dockets 97-98 and 97-151, is to bring Congress' intent to fruition with regard to the costs of using utility poles and conduits to deploy telecommunications infrastructure. For years, cable companies have enjoyed subsidized use of utility plant through pole rental rates that did not recover all the costs utilities incur in constructing their facilities and in providing access to same for third-party attachers. The instant proceedings should mark the end of the line the subsidization of cable companies by the Electric Utilities and their ratepayers.

In enacting the regulations necessary to implement Section 224(e), the Commission must ensure that utilities are fully compensated for the use of their poles to the extent required by the statute. Each attacher to a utility pole, including third-party overlashers, must pay for their share of the two-thirds of unusable space allocated to attachers by statute. Overlashing should proceed only after notice, permit and non-recurring charge provisions are satisfied, and the Commission should authorize utilities to collect just and reasonable rents from all overlashers or, at least, all third-party overlashers.

The Electric Utilities should also be fully compensated for the use of their conduits. Conduit costs should be allocated on the basis of replacement costs and should be calculated on the basis of actual run-to-run conduit occupation, if elected by the utility. As to rights-of-way, the Commission should stay the course it staked out in the Interconnection Order: rates, terms and conditions of attachment to rights-of-way should proceed on a case-by-case basis. With regard to transmission towers, the Commission should recognize that, except under unusual situations, transmission towers are not usable for aerial attachments and that, due to the existence of counter poise and safety clearance margins, only the portions of transmission rights-of-way on either side of the towers is available for burying attachments.

The Commission should recognize that Section 224 does not apply to the non-wireline equipment of wireless providers, and that the instant proceeding is not the forum for addressing the provisions set forth in the 1996 Act to bolster and protect the market entry and competitive efforts of wireless services. The Commission should also take the opportunity afforded by the instant proceedings to recognize that cable service providers must, in certain circumstances, provide non-discriminatory access to their ducts and rights-of-way used for providing cable services, and, in all circumstances, provide non-discriminatory access to such ducts and rights-of-way if the cable companies owning same commence providing telecommunications services. The Commission should further explicitly require all attachers to fully participate in the field and bar those attachers who fail to do so from instigating complaint proceedings.

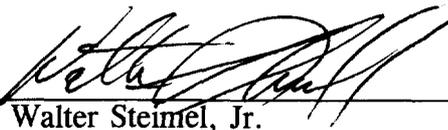
Finally, the Commission should explicitly establish that its pole attachment rules and regulations operate only, in the words of the statute, "when the parties fail resolve" issues arising from the need and desire of cable and telecommunications providers to attach their facilities to utility poles and conduits. The Commission should emphasize that arm's-length, good-faith negotiated agreements should be the normal mechanism for determining the rates, terms and conditions of attachment. The Commission should not establish or encourage a tariff-like uniform-rate or identical-term regime, for these are the hallmarks of a regulated rather than an open market. The Commission's long-range goal with regard to attachments to facilities owned by utilities and others should be to shed its role as a player on the cable and telecommunications infrastructure field of play and to act instead as an impartial referee

monitoring and preventing the occasional infraction occurring in the course of play by the market participants.

Respectfully submitted,

CAROLINA POWER & LIGHT COMPANY
DELMARVA POWER & LIGHT COMPANY
ATLANTIC CITY ELECTRIC COMPANY
ENERGY SERVICES
ENERGY ARKANSAS, INC.
ENERGY LOUISIANA, INC.
ENERGY GULF STATES, INC.
ENERGY NEW ORLEANS, INC.
ENERGY MISSISSIPPI, INC.
FLORIDA POWER CORPORATION
PACIFIC GAS AND ELECTRIC COMPANY
POTOMAC ELECTRIC POWER COMPANY
PUBLIC SERVICE COMPANY OF COLORADO
SOUTHERN COMPANY
GEORGIA POWER
ALABAMA POWER
GULF POWER
MISSISSIPPI POWER
SAVANNAH ELECTRIC
TAMPA ELECTRIC COMPANY
VIRGINIA POWER
NORTH CAROLINA POWER
VIRGINIA POWER

By:



Walter Steimel, Jr.
Richard E. Jones
Marjorie K. Conner
Ronnie London
Counsel

Hunton & Williams
1900 K Street, N.W.
Suite 1200
Washington, D.C. 20006
(202) 955-1500

October 21, 1997

[DC EPU] T:\TC\52851\000003\REPLY.V4

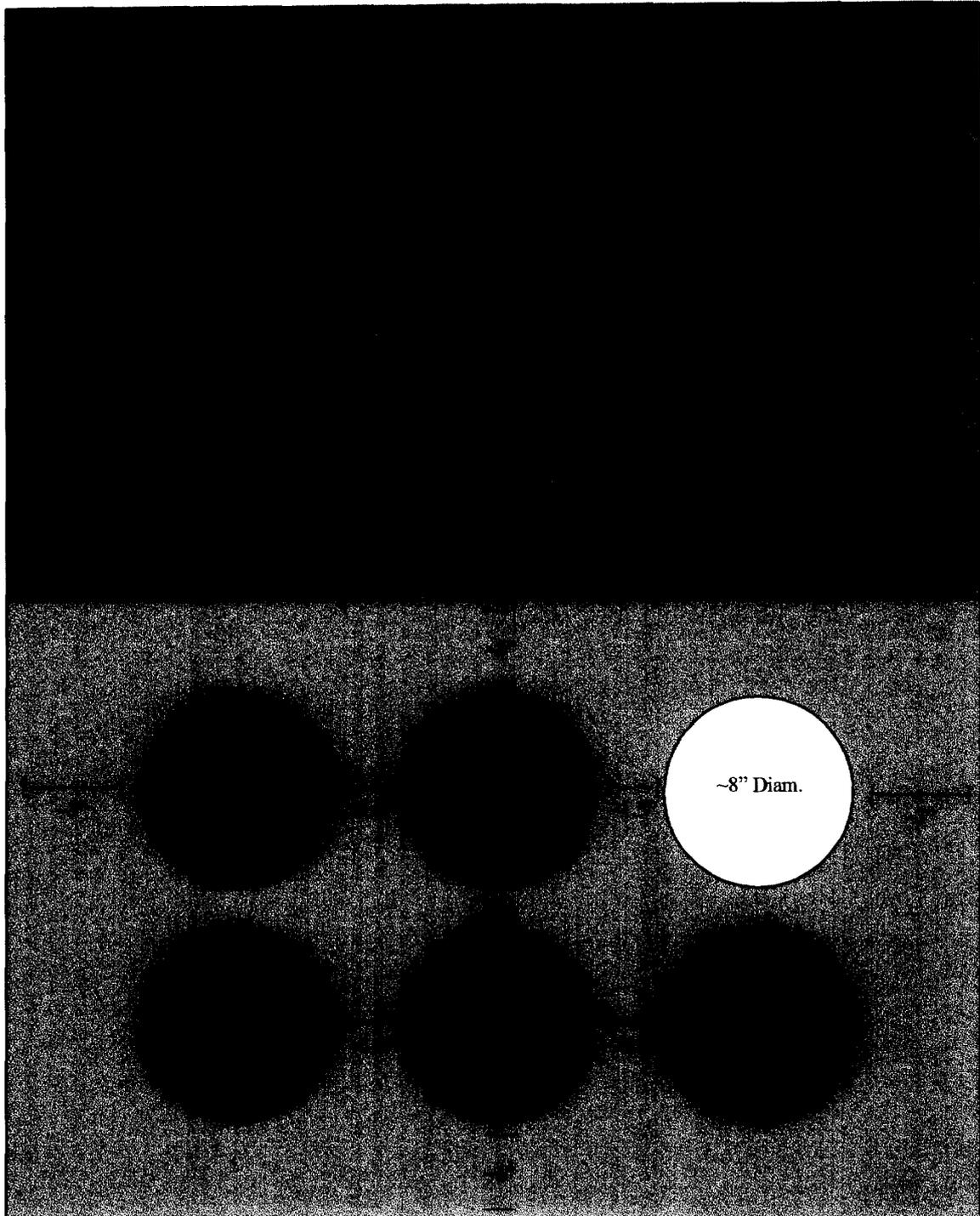
EXHIBIT A

CROSS-SECTION OF TYPICAL ELECTRIC UTILITY CONDUIT

Cut Asphalt

Dirt Fill
~36"

Thermal/
Sand or
Concrete



****NOTE:** This is NOT to scale

CODE TO DUCT COLORS:

| | |
|----------|---------------------|
| RED -- | Electric Primary |
| WHITE -- | Spare |
| GREEN -- | Open for Attachment |
| BLACK -- | Clogged/Collapsed |

EXHIBIT B

MANHOLE-CONDUIT NETWORK

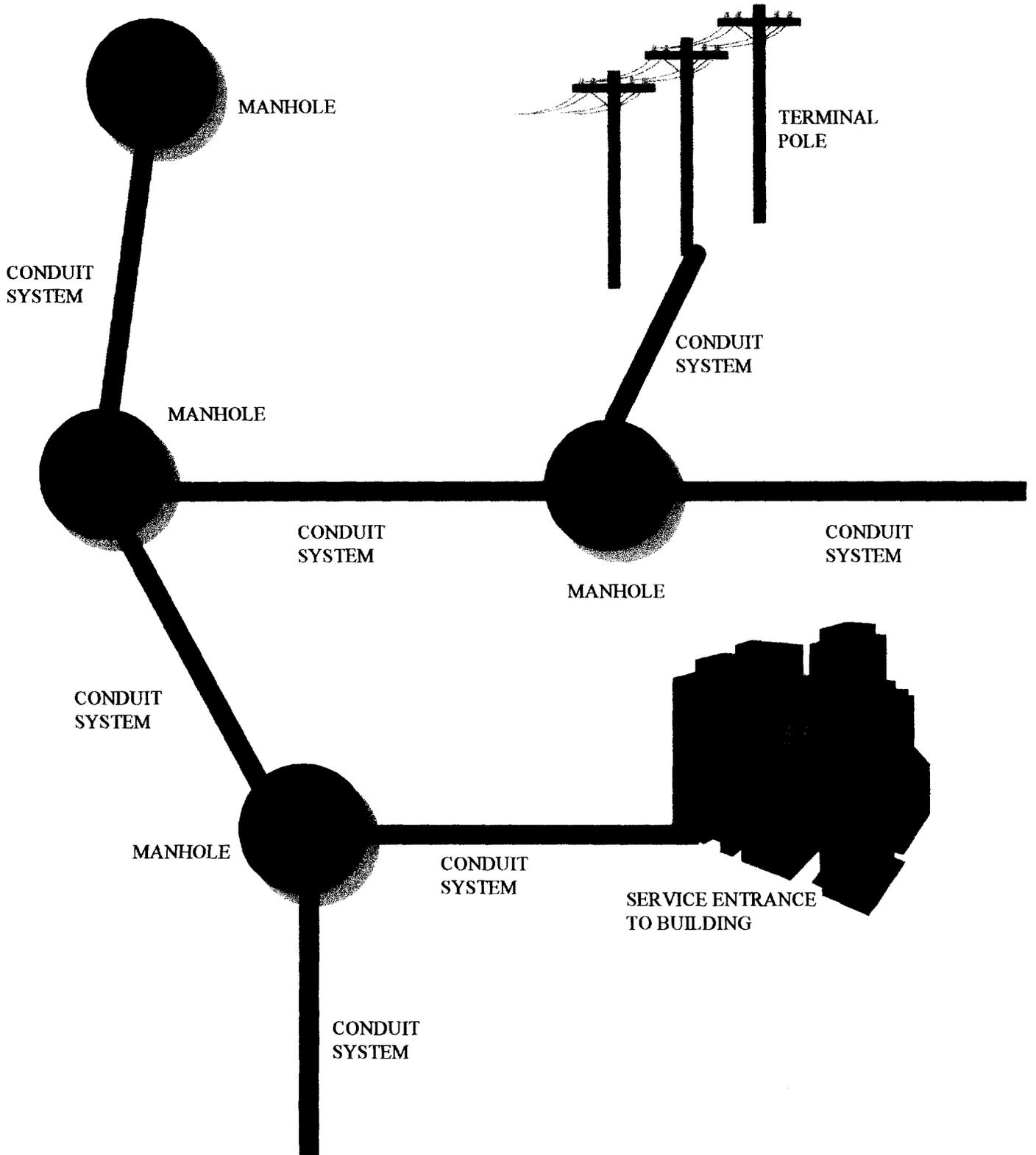


EXHIBIT C

TYPICAL TRANSMISSION RIGHT-OF-WAY WITH 240 kV TOWER

