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July 30, 2015

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: WC Docket No. 07-245, Implementation of Section 224 of the Act

Dear Ms. Dortch:

TDS Telecommunications Corp. (“TDS Telecom”) hereby submits this letter in support of the Petition for Reconsideration filed by the National Cable & Telecommunications Association, COMPTEL, and tw telecom inc. (“Petitioners”) in the above-referenced proceeding.

In their submission, Petitioners identify an aspect of section 1.1409(e)(2) of the Commission’s rules, which was promulgated by the *2011 Pole Attachment Order*, that appears to have resulted in unintended departures from the Commission’s stated goal of producing pole attachment rates for telecommunications providers that “generally will recover the same portion of pole costs as the current cable rate.”¹ More specifically, Petitioners note that the rate formula set forth in section 1.1409(e)(2) -- which incorporates a cost allocation factor of 66 percent in urban areas and 44 percent in rural areas -- yields a rate for telecommunications providers that approximates the cable rate only when paired with presumptions that there are five entities attached on urban poles and three entities attached on rural poles.² The Petition goes on to explain that if the presumptive number of entities attached to a pole is rebutted by the pole owner, which happens with some frequency, then the resulting calculation under these cost allocation factors can yield a rate for telecommunications providers that is much higher than the cable rate, in contravention of the Commission’s stated objectives.

¹ Petition for Reconsideration or Clarification of the National Cable & Telecommunications Association, COMPTEL and tw telecom inc., *In re Implementation of Section 224 of the Act*, WC Docket No. 07-245 (filed June 8, 2011) at 4 (“Petition”), *citing Implementation of Section 224 of the Act*, WC Docket No. 07-245, *Report and Order and Order on Reconsideration*, FCC 11-50 (rel. Apr. 7, 2011) (“*2011 Pole Attachment Order*”) at ¶ 8.

² Petition at 5.

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The Petition provides real-world examples of how, under these circumstances, the rate formula set forth in section 1.1409(e)(2) of the Commission's rules has resulted in pole attachment rates for telecommunications providers that are substantially higher than the cable rate.³ Indeed, as the Petition points out, in one case the rate for telecommunication providers ended up 70 percent higher than the cable rate.⁴ Others have pointed out that this problem can be exacerbated for telecommunications providers in rural areas, who "must obtain rights to many more additional poles to serve customers spread out over a greater geographic area."⁵ As a telecommunications provider that serves many rural areas, TDS Telecom is deeply concerned about this issue.

A pole attachment rate for telecommunications providers that is materially higher than the cable rate represents a substantial departure from what the Commission had in mind when it promulgated section 1.1409(e)(2). Indeed, the Commission explicitly noted in the *2011 Pole Attachment Order* that "the specific [cost allocation] percentages we select provide a reduction in the telecom rate, and will, in general, *approximate the cable rate*, advancing the Commission policies identified above."⁶ In other words, the Commission expected the rate formula set forth in section 1.1409(e)(2) to yield a pole attachment rate for telecommunications providers that approximates the cable rate. Absent the reconsideration or clarification sought by Petitioners, that expectation will not be realized.

The Petition noted that the Commission can achieve its goal of providing uniform pole attachment rates for providers of telecommunications and cable service by accommodating cost adjustments scaled to other entity counts when fewer than five entities attach to a pole in an urban area or fewer than three entities attach to a pole in a rural area.⁷ TDS Telecom endorses this solution, as have many other parties that have filed comments on the Petition.⁸

³ *Id.* at 6, Attachment A.

⁴ *Id.* See also Reply Comments of Frontier Communications Corporation, *In re Implementation of Section 224 of the Act*, WC Docket No. 07-245 (filed June 15, 2015) ("Frontier Reply Comments") at 3, n.16 ("Frontier routinely faces attempts by power companies to use the telecom rate cost allocator for areas with lower average attaching entity numbers").

⁵ Frontier Reply Comments at 3.

⁶ *2011 Pole Attachment Order* at ¶ 149 (emphasis added).

⁷ Petition at 6, Attachment B.

⁸ See, e.g., Comments of COMPTTEL and Level 3 Communications, LLC, *In re Implementation of Section 224 of the Act*, WC Docket No. 07-245 (filed June 4, 2015) at 3; Comments of the American Cable Association, *In re Implementation of Section 224 of the Act*, WC Docket No. 07-245 (filed June 4, 2015) at 6; Comments of Verizon, *In re Implementation of Section 224 of the Act*, WC Docket No. 07-245 (filed June 4, 2015) at 2.

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In sum, the record in this proceeding demonstrates that granting the Petition would be consistent with the Commission's states objectives and encourage the continued deployment of network infrastructure on a fair and appropriate basis. For these reasons, the Commission therefore should grant the Petition forthwith.

Pursuant to the Commission's rules, a copy of this letter is being filed in the above-referenced docket. Please contact me if you have any questions.

Respectfully submitted,

/s/

Yaron Dori
Counsel for TDS Telecom