

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Implementation of Section 224 of the Act;)	WC Docket No. 07-245
Amendment of the Commission's Rules and)	
Policies Governing Pole Attachments)	RM-11293
)	
)	RM-11303

THIRD DECLARATION OF THOMAS J. KENNEDY, P.E.

1. My name is Thomas J. Kennedy. I am a Professional Engineer licensed in the State of Florida. I am currently employed by Florida Power & Light Company ("FPL") as Principal Regulatory Affairs Analyst in the Distribution Business Unit. I am FPL's Professional Engineer responsible for managing Joint Use. This declaration is based on my personal and professional knowledge, as well as knowledge available to me in my capacity at FPL.

2. I am the same Thomas J. Kennedy who offered testimony in support of the initial comments submitted by Florida Power & Light Company, Tampa Electric Company, and Progress Energy Florida, Inc. (collectively, the "Florida IOUs") in the above-captioned matter and in support of the reply comments filed by the Florida IOUs. I offer this testimony in support of Edison Electric Institute's and United Telecom Council's response to the proposals filed by the Broadband & Wireless Pole Attachment Coalition ("BWPA") and Fibertech Networks, LLC ("Fibertech").

3. In my Second Declaration, I noted that T-Mobile's initial comments implied that FPL was the cause of delay in T-Mobile's Distributed Antenna System ("DAS") construction. I further noted that as of April 22, 2008, T-Mobile had yet to settle on an antenna configuration it

would be using that FPL could review for attachment compatibility with FPL's Storm Hardening construction standards. Finally, I noted that, despite this, it appeared that FPL and T-Mobile were close to reaching an agreement for T-Mobile's DAS deployment.

4. This Third Declaration will expand upon my Second Declaration and explain where T-Mobile stands in its DAS construction process on FPL's distribution poles.

5. In 2006, after two devastating hurricane seasons that resulted in widespread outages and significant infrastructure damage in Florida, the Florida Public Service Commission ("FPSC") opened various proceedings relating to "hardening" the infrastructure to better withstand severe storms. In early 2006, the safety, reliability and engineering issues raised by pole attachments became part of the FPSC's storm hardening proceeding. Although T-Mobile had been seeking during this time an access agreement with FPL for its wireless attachments, the parties mutually suspended their negotiations during the pendency of the storm hardening proceeding. The negotiations resumed on January 3, 2008.

6. The ensuing negotiations were extensive and involved. Both sides made numerous changes, created numerous drafts, held many meetings and worked diligently and in good faith to accommodate each other's concerns. The resulting agreements were finalized in December 2008, signed by T-Mobile on December 31, 2008 and signed by FPL on January 26, 2009.

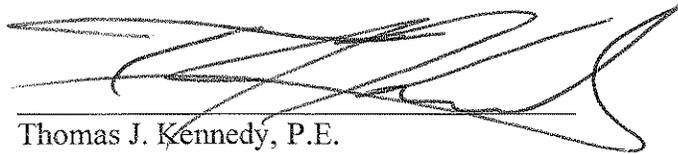
7. Despite being invited to begin its equipment evaluation process on May 23, 2008, T-Mobile first contacted me on March 2, 2009 to discuss providing actual samples of its equipment for installation on FPL's poles.

8. As of today, to the best of my knowledge, T-Mobile has not yet provided FPL equipment for testing as to installation on FPL's poles.

9. As of today, T-Mobile has not made an application to FPL for an attachment permit.

10. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the facts set forth in this declaration are true to the best of my knowledge.

Executed on the 27th day of March, 2009.

A handwritten signature in black ink, appearing to read "Thomas J. Kennedy", is written over a horizontal line. The signature is stylized and somewhat cursive.

Thomas J. Kennedy, P.E.
Principal Regulatory Affairs Analyst
Florida Power & Light Company