UTC
UTILITIES TELECOM COUNCIL
The Telecommunications and Information Technology Association for Utilities, Pipelines, And Other Critical Infrastructure Companies

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

Ex Parte

Re: Notice of Ex Parte Presentation, A National Broadband Plan for Our Future, GN Docket No. 09-51.

Dear Ms. Dortch:

This is to notify you pursuant to Section 1.1206 of the Commission's Rules that Michael Oldak and Brett Kilbourne from the Utilities Telecom Council (UTC) met with Angela Kronenberg, Wireline Legal Advisor to FCC Commissioner Mignon Clyburn on April 22, 2010 in connection with the above-referenced proceedings.

At the meeting the UTC representatives made the following points.

1) **Support Utilities' Need For Access To Spectrum -** UTC supports NBP's suggestion that the FCC explore with NTIA the possibilities for coordination of smart grid spectrum use in appropriate federal bands in order to more rapidly and cost effectively deploy smart grid networks. UTC has always supported the sharing of spectrum in the federal bands and is hopeful that the FCC's recognition of our suggestions will create some movement in this direction.

2) **Support DOE Study on Communications Needs of Utilities -** UTC supports the NBP's suggestion that DOE study utilities' communications requirements so that it can integrate consideration of these requirements into federal Smart Grid policy. There is considerable misinformation about the ability of 3rd parties to provide the network communication functions that utilities need in order ensure the reliability of the electric grid. In that regard, the NBP's suggestion that commercial carriers harden their systems and improve their reliability will help to ensure that utilities consider commercial carriers as viable alternatives for certain utility functions.

3) **Support Customer Access To Energy Usage Data –** UTC agrees that consumers should have access to data on their consumption of electric service, and be able to authorize third party access to that data. . However, great care must be taken in establishing any state or federal rules or regulations regarding how quickly, how often and in what manner that data should be made available. Certain collection, aggregation, formatting, storage, and other data management processes are not without costs. Additionally, the FCC suggests that consumers

should have their own data in as close to real-time as possible. Real-time information is generally only obtainable from smart meters and few utilities have activated the requisite home area network (HAN) functionality to support delivery of real-time information. Virtually all utilities will await the completion of the NIST standards- setting process, which incorporates HAN and real-time data transmission protocols, before activating any real-time or near real-time capabilities. Finally, utilities will no doubt continue to be required to establish procedures for maintaining the security and privacy of consumer data.

4) **Question the perceived impediments to using commercial carrier networks for Smart Grid communications**- The NBP identified several steps to removing perceived "impediments" to using commercial carrier networks for Smart Grid communications. UTC believes that there is a misconception that regulated utilities will or be able to favor "self-build, rate baseable" communication options over "leased and expensed" use of commercial networks, and thus create an impediment to commercial carrier participation. All decisions regarding smart grid investments, especially large investments such as the communication networks needed to support the smart grid, are subject to oversight in state regulatory proceedings in which both commission staff and state consumer advocates will suggest disallowance for any costs, which reflect "imprudent" additional costs. Choices based solely on a higher cost or ability to rate base investments could certainly be reviewed with respect to the prudency of the decision and those charges disallowed. But more importantly, the suggestion ignores the fact that regardless of the rate treatment, it is only one element of the telecommunications decision. UTC also welcomes further exploration of how commercial carriers can fulfill the critical and non-critical communications needs of utilities. Any such exploration must, however, take into account the utility industry's unique demands for low latency, high reliability, stringent security, geographic coverage and diversity, compatibility with existing protocols and a host of other factors that protect the safety and reliability of the entire electric grid, including the stringent requirements of NERC CIP (North American Electric Reliability Corporation Critical Infrastructure Protection) . Commercial carriers have known about these requirements for years, but have never shown that they can meet the same requirements that are imposed upon utility systems. The answer is not reexamining NERC CIP requirements, but rather hardening commercial networks to meet the same requirements as utilities in order to protect the grid from natural or man-made disasters.

5) **Question Pole Attachments proposals -** In order to promote broadband deployment and adoption, the NBP recommends low uniform pole attachment rates, expedited processes for attaching and "make ready" activities, and streamlined dispute resolution process. UTC is concerned that the Commission intends to reduce rates for broadband attachments to the current rate that applies for cable television attachments. Such a rate would further subsidize the communications industry, and these subsidies would ultimately be borne by electric ratepayers, regardless of whether or not they actually receive any communication services from the pole attacher. UTC is also concerned that new make-ready requirements and streamlined processes may compromise critical infrastructure reliability and security and could shift additional costs onto utilities and their consumers.

6) **Support Sharing 700 MHz Public Safety Spectrum.** The NBP also seeks to create an interoperable nationwide Public Safety Broadband Network that may offer opportunities for utilities to participate as "emergency responders" and possibly to use the public safety spectrum for smart grid applications. Public Safety has already decided to implement Long Term Evolution (LTE) technology for the network roll-out. UTC is studying the advantages and drawbacks for utilities that access the network. For example, LTE may increase the cost of rural deployments and sharing with public safety entities, but it offers traffic control capabilities that may make such sharing feasible. Clearly defined traffic priorities, agreed to

by all parties, will be needed to ensure the breadth of emergency situations can be accommodated.

If there are any questions concerning this matter, please let me know.

Very truly yours,

Michael D. Oldak

cc: FCC Participants