

**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
)
A National Broadband Plan for Our)
Future) GN Docket No. 09-51
)

To: The Commission

COMMENTS OF ALLIANT ENERGY

Alliant Energy Corporate Services, Inc. as agent for and on behalf of Interstate Power and Light Company and Wisconsin Power and Light Company (collectively, “Alliant Energy”) respectfully submits the following comments related to Pole Attachments to the Federal Communications Commission’s Further Notice of Proposed Rulemaking.¹

ILEC Rental Rates

Applying FCC Rates to ILECs

Under Alliant Energy’s Joint Use Agreements, Incumbent Local Exchange Carriers (ILEC) own a percentage of the total jointly used pole plant. Applying the FCC rates to ILEC pole owners would be discriminatory to both electric utilities and non-pole owning attaching companies. The FCC rates have historically been applied to non-pole owning attachments. Mandating the rates be applied to ILECs would create a financial advantage to the ILEC over the CLEC or CATV companies, and would be discriminatory to the electric utilities.

^{1/} *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, WC Docket No. 07-245, GN Docket No. 09-51, Order and Further Notice of Proposed Rulemaking, FCC 10-84 (rel. May 21, 2010) (“*Pole Attachment FNPRM*”). The *Pole Attachment FNRPM* was published in the Federal Register on July 15, 2010. 75 Fed. Reg. 41338.

The electric utilities and the ILECs in Alliant Energy's service territory do not jointly own poles, but own poles that are jointly utilized by both companies. As pole owners, ILECs should bear the same responsibilities as electric utilities for providing access to jointly utilized poles. Our Joint Use Agreements outline the operational issues regarding pole usage and provide a negotiated rental rate. For the reasons stated above, ILECs should not be included under the proposed telecom rate.

Non-discriminatory Attachment Techniques

Boxing and Extension Arms

The practice of boxing a pole and the use of extension arms have been defined as "non-discriminatory attachment techniques" by the FCC. These construction practices create safety and physical climbing issues for electric utility workers, and increase the opportunity for damage to attachments as well as power lines. Electric utilities continually strive to insure the safety and reliability of the power system, which often results in updates to construction practices. Attaching entities should be required to construct their attachments in a manner that is consistent with and in compliance with the specific electric utility's current construction standards.

Make-Ready Deadlines

General

The pole owner should not be penalized for not meeting a response deadline for an attachment request if the request or data provided by the requesting entity is incomplete or inaccurate. A significant amount of handling and rework are involved when the requesting entity is unfamiliar with or untrained in basic electrical code requirements, cannot provide basic loading information for proposed attachments, does not understand utility construction, or

incorrectly identifies the route or poles associated with a request. Pole owners thus spend significant resources and time requesting additional information from requesting entities which such information is not always promptly returned. Therefore, a make-ready deadline must begin when a complete application is received by the pole owner from the requesting entity.

Make-Ready Deadlines

Make-ready deadlines should not be mandated by the FCC. The time required to complete make-ready work is dependent on the size of an attachment request (number of poles), the amount of make-ready required to accommodate the requested attachments, the type of construction involved (number of phases, voltage), the size of the utility, required regulatory work in progress, environmental issues such as terrain or weather, and emergency response situations such as storm damage, customer outages, etc. Thus, it is impossible to set one deadline for make-ready requests. Utilities should be allowed to manage make-ready requests based on their internal requirements.

Use of Outside Contractors

Use of Outside Contractors

The use of an outside contractor for make-ready work poses significant risk for the electric utility. Outside contractors which provide services for Alliant Energy are carefully selected. Work in and around utility lines is a significant safety issue which cannot be minimized. Not just any contractor has the ability, knowledge and skill to perform services in and around utility lines. Also important to keep in mind is that the electric utility does have ownership of the poles and thus must have the final say as to who is performing work on its poles. The use of an outside contractor should be viewed as the exception to the rule, and should only be allowed in the following circumstances:

- (1) the electric utility deems there is need associated with a specific attachment request;
- (2) the electric utility approves the contractor and has an agreement in place with the contractor which contains acceptable terms and conditions to ensure the work will be performed by competent personnel in a safe manner;
- (3) the contractor is frequently utilized by the electric utility to perform work on similar lines/poles;
- (4) the contractor is familiar with and agrees to abide by the electric utility's specific construction standards and work documents for the project; and
- (5) the electric utility (if necessary) has the opportunity to provide a representative for on-site management. The electric utility representative must have the final authority for resolution of any disputes and would have the option of requesting information from the electric utility's staff if required.

Other Access Proposals

Coordination of Rearrangements for Make-Ready

The requesting entity should be responsible for coordinating field assessment with the pole owner and all entities attached to the pole to determine and agree upon make-ready and timeline estimates.

Single Pole Owner Management of Joint Poles

A single pole owner should not be responsible for approving or denying access to poles that are subject to joint use when the poles are owned by different companies. An attachment request may list poles owned by the ILEC as well as the electric utility. If the pole is owned by the ILEC, it may not be aware of the electric utility's future plans for upgrade or adding equipment to poles in a joint line, or the electric utility's current construction standards. At the

same time, the electric utility may not be aware of future plans by the ILEC for space on an electric utility owned poles to which the ILEC has attached. Approving an attachment without that knowledge could jeopardize the safety of all parties, as well as increase future costs to the ILEC and the electric utility under FCC rules.

Schedule of Make-ready Charges

Make-ready charges do not fit a simple formula. Circumstances related to the condition and location of a pole, weather, equipment currently on the pole and the work that is required to accommodate an attachment can significantly impact the cost of make-ready work. Pole owners, specifically electric utilities, need to charge actual make-ready costs to attaching entities. The electric utility's ratepayers and shareholders should not bear the costs associated with another utility or business accessing utility plant. Utilities already struggle to meet costs through ratemaking, and adding an additional cost to a rate-payer who may not utilize the services provided by an attaching entity is discriminatory and inappropriate.

Make-Ready Billing

Electric utilities should be allowed to recover costs, including estimated costs, during the process of engineering and make-ready, and should be allowed to bill the attaching entity for actual costs at the close of the project. Payment of the estimate of engineering and make-ready costs by the attaching entity shows its commitment to the project and good faith effort to support its costs. Electric utilities spend a significant amount of time and money responding to attachment requests that are later abandoned or delayed therefore, electric utilities must charge for the engineering review, regardless of whether make-ready is approved by the requesting entity. An attaching entity should be required to provide up-front payment in the form of an

‘estimate’ for any work performed on their behalf by the electric utility or other pole owner, regardless of whether it is for field review or make-ready.

Collection of Data

Collection of Data Regarding Available Pole Space

Alliant Energy does not track available pole space and reserved space on poles. If this information is required, the attaching entities subject to FCC Section 224 jurisdiction should be solely responsible for the required audits to collect this information and the direct costs to maintain the information should be fully allocated each year in the pole rental rate. These direct costs should be allocated equally to each contract which is subject to one of the FCC rental rate formulas. Pole attachments, pole locations and available space data should not be available for public use. This information should be requested from the electric utility or other pole owner as needed. Public availability of utility plant is both a security and safety issue.

Enforcement Issues

Dispute Resolution and Complaint Procedures

Disputes and complaints should be handled utilizing already established mediation or state court proceedings. The parties by contract should have the ability to negotiate the form of dispute resolution and not have such form mandated by the FCC.

Penalties for Denying Access

The electric utility must be allowed to limit or deny access to space occupied by the electric utility, at its discretion, without threat of penalties. An electric utility must provide safe and reliable electric power and thus if space on its poles is required for utility purposes, the electric utility must have the option to limit the usage of such space by requesting entities. An

electric utility would only deny access to a pole for legitimate safety or reliability concerns. Denial of access by an electric utility would not be due to competition.

Coordination of Rearrangements/Make-Ready/Payments

The requesting attaching entity should be held responsible for tracking and coordinating the required make-ready by all parties currently on the pole. Estimated engineering and make-ready payments should be received by the pole owner before any make-ready work is initiated. If there are estimated costs associated with other attaching entities that must be paid prior to make-ready, the company requesting to attach should be required to provide the necessary documentation to the pole owner that all estimated costs have been paid. The pole owner should not be responsible for tracking, billing, managing or reimbursing others for costs associated with a third party attachment request.

Electric utilities, pole owners, or others who have not received payment of invoices for make-ready work related previous attachment requests should have the right to stop the attachment approval process or deny access to future locations until all outstanding bills by a specific attaching entity have been satisfied.

Unauthorized Attachment Penalties

We believe the penalties assessed in Oregon are appropriate and would significantly reduce the incidence of unauthorized attachment by attaching entities.

Sign and Sue Rule

Alliant Energy's standard pole attachment agreements are intended to be fair to all parties. The intent behind a contract is that both parties agree. If negotiations are unsuccessful, there are options to resolve differences. The Sign and Sue Rule undermines the parties' attempts

to negotiate an agreement in good faith. Pole owners must be allowed to manage their risk through reasonable contracts rather than the threat of legal action.

WHEREFORE, THE PREMISES CONSIDERED, Alliant Energy respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

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August 16, 2010