

**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

**OPPOSITION TO FLORIDA INVESTOR-OWNED UTILITIES’,
ONCOR ELECTRIC DELIVERY COMPANY LLC’S, AND COALITION OF
CONCERNED UTILITIES’ PETITIONS FOR RECONSIDERATION
BY THE ALABAMA CABLE TELECOMMUNICATIONS ASSOCIATION,
BRESNAN COMMUNICATIONS, BROADBAND CABLE ASSOCIATION OF
PENNSYLVANIA, CABLE AMERICA CORPORATION, CABLE TELEVISION
ASSOCIATION OF GEORGIA, FLORIDA CABLE TELECOMMUNICATIONS
ASSOCIATION, INC., MEDIACOM COMMUNICATIONS CORPORATION,
NEW ENGLAND CABLE AND TELECOMMUNICATIONS ASSOCIATION,
OHIO CABLE TELECOMMUNICATIONS ASSOCIATION,
OREGON CABLE TELECOMMUNICATIONS ASSOCIATION,
AND SOUTH CAROLINA CABLE TELEVISION ASSOCIATION**

The Alabama Cable Telecommunications Association, Bresnan Communications, Broadband Cable Association of Pennsylvania, Cable America Corporation, Cable Television Association of Georgia, Florida Cable Telecommunications Association, Inc., Mediacom Communications Corporation, New England Cable and Telecommunications Association, Ohio Cable Telecommunications Association, Oregon Cable Telecommunications Association, and South Carolina Cable Television Association, providers of cable, broadband, and other services, and state trade associations representing these entities (“State Cable Associations and Cable Operators”), pursuant to Section 1.429(f) of the Commission’s Rules, 47 C.F.R. § 1.429(f), hereby oppose the Petitions for Reconsideration of the *Pole Order* in the captioned docket,¹ filed

¹ *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, 25 FCC Rcd. 11864 (2010) (“*Pole Order*”).

by the Florida Investor-Owned Utilities (“Florida IOUs”) and the Coalition of Concerned Utilities (“Coalition”).²

The State Cable Associations and Cable Operators note that the arguments made by the Florida IOUs, Oncor, and the Coalition, are contrary to long standing Commission precedent. The State Cable Associations and Cable Operators’ own Petition for Reconsideration asks the Commission to more clearly re-confirm that precedent. The State Cable Associations and Cable Operators’ Petition thus effectively serves to oppose the petitions for reconsideration filed by the Florida IOUs, Oncor, and the Coalition.

Specifically, the State Cable Associations and Cable Operators ask the Commission to recognize that accommodating attaching entities by changing out existing poles for taller poles is a routine technique utilities deploy for their own needs and to accommodate third party attachers, and that allowing utilities to refuse change-outs would be discriminatory, unlawful, and unsound public policy. *See Public Notice* at 1. The State Cable Associations and Cable Operators therefore incorporate by reference here their arguments set forth in their Petition for Reconsideration or Clarification, and further note in particular that the Florida IOUs misinterpret the term “insufficient capacity” in 47 U.S.C. § 224(f), and misread the decisions in *Southern Company v. FCC*, 293 F.3d 1339 (11th Cir. 2002), and *Alabama Power Co. v. FCC*, 311 F.3d 1357 (11th Cir. 2002). Accordingly, the State Cable Associations and Cable Operators respectfully submit the Florida IOUs’ petition for reconsideration, as well as those of Oncor and the Coalition should be denied.

² *See Comment Sought on Petitions for Reconsideration of Pole Attachments Order*, 25 FCC Rcd. 13173 (2010) (“*Public Notice*”). By extension, the State Cable Associations and Cable Operators also oppose the petition for reconsideration filed by Oncor Electric Delivery Company LLC (“Oncor”), insofar as it adopts and joins the Coalition’s and Florida IOUs’ arguments. *See id.*; *see also* Pet. for Recon. of Oncor, WC Docket 07-245, GN Docket No. 09-51, filed Sept. 2, 2010, at 2 ¶ 1.

Respectfully submitted,

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South Carolina Cable Television Association

November 1, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November 2010, copies of the foregoing Opposition to Florida Investor-Owned Utilities', Oncor Electric Delivery Company LLC's, and Coalition of Concerned Utilities' Petitions for Reconsideration were sent by Electronic mail and First Class mail, postage prepaid, to:

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