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March 4, 2011

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: In the Matter of Implementation of Section 224 of the Act; A National Broadband
Plan for Our Future (WC Docket No. 07-245; GN Docket No. 09-51)
Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On March 2, 2011, Aryeh Fishman, of the Edison Electric Institute (EEI), and Shirley Fujimoto and Jeffrey Sheldon, counsel for EEI, met with Austin Schlick, General Counsel of the FCC; Julie Veach, Sonja Rifken, Diane Holland, and Raelynn Remy, of the Office of General Counsel; and Marcus Maher, Christie Shewman, and Claude Aiken, of the Wireline Competition Bureau, to discuss the above-reference proceeding.

Consistent with its written comments and reply comments, EEI explained why incumbent local exchange carriers (ILECs) are not entitled to regulated pole attachment rates under Section 224 of the Communications Act of 1934, as amended. EEI noted that the Supreme Court's recent decision in FCC v AT&T, No. 09-1279 (decided March 1, 2011) confirms that identical words and phrases in the same statute should normally be given the same meaning, and that statutory language must be interpreted in the specific context in which it is used and in the broader context of the statute as a whole. Under that analysis, it is clear that a "telecommunications carrier" is the same as a "provider of telecommunications service" pursuant to the definition in Section 3(44), and that Section 224(a)(5) precludes the FCC from regulating rates paid by ILECs for pole attachments.



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EEI further explained that even if there were any ambiguity in the statute, it would be unreasonable to interpret Section 224 as vesting the FCC with authority to regulate joint use agreements between electric utilities and ILECs because these agreements are already subject to state regulation even in states that have not reverse-preempted FCC regulation of pole attachments, and they address benefits and obligations of both utilities that are not present in the typical pole attachment license agreement.

EEI also reiterated its position that it would be inconsistent with the language, structure and intent of the 1996 amendments to Section 224 to develop pole attachment rate formulas that would seek to drive rates for attachments used to provide telecommunications services to as close to incremental cost as possible. Such an interpretation would effectively nullify Section 224(e) and conflict with congressional intent that the FCC allocate pole costs among all entities in a way that acknowledges that the entire pole is of benefit to all attaching entities.

Pursuant to Section 1.1206 of the FCC's Rules, this notice is being filed electronically for inclusion in the record of the proceedings identified above. If there are any questions concerning this submission, please communicate with undersigned counsel.

Very truly yours,

/s/ Jeffrey L. Sheldon

Jeffrey L. Sheldon

cc (via email):

Austin Schlick

Julie Veach

Sonja Rifken

Diane Holland

Raelynn Remy

Marcus Maher

Christie Shewman

Claude Aiken