



**National Rural Electric
Cooperative Association**

A Touchstone Energy® Cooperative 

March 16, 2011
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication: National Rural Electric Cooperative Association (“NRECA”) and American Public Power Association (“APPA”) Notice of Ex Parte Presentation, Implementation of Section 224 of the Act, WC Docket No. 07-245; A National Broadband Plan for our Future, GN Docket No. 09-51.

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission’s rules, this ex parte notice is filed on behalf of NRECA and APPA. On March 15, 2011, David Predmore and Tracey Steiner of NRECA, Gloria Tristani of Spiegel & McDiarmid LLP, Desmarie Waterhouse of APPA and Jim Baller and Sean Stokes of the Baller Herbst Law Group met with Zac Katz, Legal Advisor to Chairman Genachowski, Bill Dever (WCB/CPD) and Jennifer Prime (WCB).

Also on March 15, 2011, David Predmore, Laura Marshall Schepis and Tracey Steiner of NRECA, Gloria Tristani of Spiegel & McDiarmid LLP, counsel to NRECA, Desmarie Waterhouse of APPA and Jim Baller and Sean Stokes of the Baller Herbst Law Group, counsel to APPA, met with Commissioner Clyburn and Angela Kronenberg, Legal Advisor to the Commissioner.

During these meetings the parties discussed barriers to broadband deployment and the public policy rationale for maintaining the cooperative and municipal utility exemption from the FCC’s pole attachment jurisdiction. The parties discussed information provided in the attached handouts and comments previously filed in the above referenced proceedings.

A copy of this letter and the handouts presented during the meeting are being filed via ECFS with your office. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "David Predmore".

David Predmore
Corporate Counsel
National Rural Electric Cooperative Association
4301 Wilson Blvd.
Arlington, VA 22203



The Electric Cooperative Exemption in §224(a)(1) Remains Sound Public Policy.

Why? In short, there's no problem that needs "fixing," and the "fix" would not even result in the intended benefits but would instead create collateral harm.

- **Co-op attachment rates are cost-based and fairly negotiated.**
 - According to an NRECA Survey conducted in 2010, the average annual fee charged was **\$10.38 per pole**.
 - Many co-ops still fall short of full cost recovery, especially costs associated with attachment inventories and inspections (47%); attachment moves to a relocated/replaced pole (37%); and removal of unsafe, unauthorized or abandoned attachments (28%).
 - To maintain their "cooperative" status under state law and exempt status under federal income tax law – non-profit and tax-exempt cooperatives must operate on a nonprofit basis. If a cooperative cannot recover the actual costs associated with pole attachments from the attachers themselves, **then electric consumers will wind up paying those costs**, regardless of whether they receive any services from the attacher.
 - A handful of such unsupported allegations in the entire record in this proceeding (WC Docket No. 07-245) do not justify any regulation of cooperative pole attachments.
- Cooperative board members must still answer to the consumers in their communities that elect them, and they do not want to be seen as responsible for their community not getting broadband.

Economics, Not Cooperative Pole Attachment Rates or Practices, Impede Broadband Deployment.

- Low pole attachment rates do not and will not incentivize deployments to areas with too few potential subscribers.
 - NRECA's survey compared consumer density – the number of consumers per mile of electric distribution line – to the average annual rates charged per pole to test the NPRM's assumption.
 - ***The lowest pole attachment rates charged were for those electric cooperatives that average fewer than 4 consumers per mile of line.*** The average per pole rates for these cooperatives serving in very sparsely populated areas were \$5.50 (median) and \$6.33 (mean), yet broadband providers are not flocking there.
- 25% of cooperative poles have at least one attachment. The most frequently cited reason for why the percentage is not higher is the cooperative has received no attachment requests for the use of its other poles.
 - 51% of cooperatives responding to NRECA's 2010 survey reported that the poles without any attachments were *those located in sparsely populated areas*, and
 - 36% responded that the poles without attachments were on *lines that did not serve a residence or business likely to need broadband or other communications services*.
- As the latest 706 Report notes, "[M]arket forces alone are unlikely to ensure that the unserved minority of Americans will be able to obtain the benefits of broadband anytime in the near future."
- Further, there is **no guarantee** that broadband providers will channel their windfall from more heavily subsidized attachment rates into broadband deployments in underserved areas.

NRECA opposes federal pole attachment regulation of cooperatives, particularly when such regulation would establish rates that do not afford adequate cost recovery and would compel cooperatives' electric ratepayers to subsidize broadband providers and their shareholders. NRECA believes that Congress got it right when it left decisions related to cooperative and public power pole attachments at the local level.