



Progress Energy

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March 31, 2011

Ms. Marlene Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Implementation of Section 224 of the Act, WC Docket No. 07-245; A National Broadband Plan for Our Future, GN Docket No. 09-51

EX PARTE NOTICE

Dear Ms. Dortch:

On March 30, 2011, Michael Lewis (Senior Vice President, Energy Delivery, Progress Energy Florida, Inc.), Hilda Pinnix-Ragland (Vice President, Corporate Public Affairs, Progress Energy Service Company, LLC), Eric Langley (Balch & Bingham, outside counsel) and I (collectively "Progress Energy") met with Commissioner Mignon Clyburn and her Wireline Legal Advisor, Angie Kronenberg, in connection with the above-referenced proceeding. Though there are many issues of concern to Progress Energy, as set forth in our prior submissions in this proceeding, our meeting with Commissioner Clyburn and Ms. Kronenberg focused on three issues: (1) make-ready deadlines and the use of third-party contractors as a means to expedite the make-ready process; (2) the treatment of ILECs as attachers with rights under section 224; and (3) pole top access for wireless antenna attachments.

Make-Ready Deadlines and Third-Party Contractors

Progress Energy expressed support for the use of third-party contractors as a means to expedite make-ready work within the communications space. The use of third-party contractors in the communications space (and limited to the communications space) not only addresses the vast majority of make-ready jobs, but also addresses the very serious safety and reliability concerns presented by non-utility personnel in the electric supply space. From Progress Energy's perspective, once a proposed pole attachment is properly engineered (through the application and survey process), the rearrangement of existing communications facilities and the construction of new attachments in the communications space can be completed by any qualified communications contractor in a single visit with minimal involvement by Progress Energy. Make-ready work in the electric supply space is an entirely different issue. Electric supply space make-ready is often more complex, more time consuming and requires more skill and coordination than communications space make-ready. Electric utilities must retain complete control over the rearrangement of electric facilities. Any action by the Commission purporting to divest an electric utility of this control – under any circumstances – would elevate the interests of communications companies over electric system safety and reliability.

Treatment of ILECs

Progress Energy urged the Commission to refrain from extending ILECs rights as “attachers” under the Pole Attachment Act. For nearly a century, Progress Energy has maintained joint use agreements with ILECs in its service area. Under these joint use agreements, the parties share the costs of pole ownership in their overlapping service areas for purposes of mutual cost-benefit. Under these joint use agreements, each party must either (a) own its fair share of poles, or (b) pay an adjustment rate to the party owning more than its fair share. Without joint use agreements, electric utilities and ILECs would have constructed redundant systems of 30-foot and 25-foot poles, respectively. Neither of these systems would have included sufficient space for third-party attachments. Thus, it is joint use agreements that have facilitated the construction of aerial corridors available for the deployment of advanced communications services. Subjecting the in-place joint use assets (poles) to an entirely new cost-allocation regime would ignore history and unfairly penalize electric utilities and their customers without any identifiable benefit to broadband deployment. In fact, the best way to encourage ILECs to deploy advanced services, particularly to underserved areas, is to avoid disrupting existing joint use agreements (under which ILECs typically can make additional attachments without make-ready and without additional annual charges). If the Commission is inclined to favor granting ILECs additional rights, it should apply only to new poles – not to poles currently in joint use.

Pole Top Access

Though Progress Energy allows pole top access for wireless antenna attachments (such as DAS) on a case-by-case basis, we do not support any rule that requires Progress Energy or other electric utilities to allow pole top access. Pole tops are part of the electric supply space, and present qualitatively and quantitatively different safety and reliability concerns from the communications space. Because this is not a force-placed relationship, the parties are able to work cooperatively to meet each other’s needs and concerns. Commission intervention into this equation, we fear, would have the opposite of the intended result. Where wireless antenna attachments cannot be accommodated on pole tops, they can almost always be accommodated within the communications space. Because there is no fundamental access issue at stake (and instead merely a location preference expressed by the carriers), this is not an area where Commission rulemaking is necessary or appropriate.

We thank the Commission for its attention to these important matters. Pursuant to Section 1.1206(b) of the Commission’s rules, a copy of this notice of *ex parte* communication is being filed electronically in the above-referenced matter. Please contact me if you have any questions.

Sincerely,



Jeffrey A. Corbett
Senior Vice President, Energy Delivery
Progress Energy Carolinas, Inc.

cc: Chairman Julius Genachowski
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Meredith Atwell Baker
Commissioner Mignon Clyburn
Angie Kronenberg