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November 21, 2011

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington D.C. 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**

Dear Ms. Dortch:

On November 17, 2011, Steve Morris and I of the National Cable & Telecommunications Association (NCTA) and Paul Glist of Davis Wright Tremaine met with Al Lewis, Marv Sacks, Dick Kwiatkowski, and Lisa Gelb of the Wireline Competition Bureau to discuss NCTA, COMPTEL, and tw telecom's jointly filed petition for reconsideration of the Commission's *2011 Pole Attachment Order* in the above-referenced dockets.¹ On November 18, 2011, I spoke by phone with Al Lewis about the same issues. We discussed possible methods to reach the Commission's stated goal of ensuring that the rate formula for pole attachments by telecommunications carriers "generally will recover the same portion of pole costs as the current cable rate."² We discussed the telecom rate proposal set forth in the Commission's *2010 Pole Attachment FNPRM*,³ and NCTA's comments in the proceeding demonstrating that application of the cable rate is fully consistent with section 224(e) of the Communications Act.⁴ We also discussed the proposal in the petition for reconsideration to vary the cost definition based on the number of attaching entities,⁵ as well as the possibility of clarifying the application of the

¹ *Implementation of Section 224 of the Act*, WC Docket No. 07-245, GN Docket No. 09-51, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240 (2011) (*2011 Pole Attachment Order*); Petition for Reconsideration or Clarification of the National Cable & Telecommunications Association, COMPTEL and tw telecom inc., WC Docket No. 07-245, GN Docket No. 09-51 (June 8, 2011) (Petition for Reconsideration).

² *Id.* at 5244, ¶8.

³ *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, 25 FCC Rcd 11864, 11923, ¶¶140-141 (2010) (*2010 Pole Attachment FNPRM*) ("[U]nder this proposal, utilities would calculate the low-end telecom rate [that would exclude capital costs and include administrative and maintenance operating costs] and the rate yielded by the current cable formula, and charge whichever is higher.").

⁴ Comments of the National Cable & Telecommunications Association, WC Docket No. 07-245, GN Docket No. 09-51, Att. A at 42 (Aug. 16, 2010); 47 U.S.C. § 224(e).

⁵ Petition for Reconsideration at Att. B.

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rebuttable presumptions regarding average number of attaching entities in urbanized and non-urbanized areas in section 1.1417(c) of the Commission's rules.⁶

Respectfully submitted,

/s/ Jennifer K. McKee

Jennifer K. McKee

cc: A. Lewis
M. Sacks
D. Kwiatkowski
L. Gelb

⁶ 47 C.F.R. § 1.1417(c).