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April 3, 2014

Notice of Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
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

Dear Ms. Dortch:

On March 31, 2014, Charles Zdebski, Esq., Earl Comstock, Esq., and the undersigned, of Eckert Seamans Cherin & Mellott, LLC, and representing Florida Power & Light Company (“FPL”) met with Deena Shetler, Elizabeth McIntyre, Marvin Sacks, and Richard Kwiatkowski from the Federal Communications Commission (“Commission”) to discuss issues surrounding the failure of incumbent local exchange carriers to report and demonstrate the consumer benefits flowing from the lower pole attachment rates emanating from the Commission’s *April 2011 Pole Attachment Order*.¹

In the meeting, we discussed with Commission staff the fact that there was explicit direction from the Commission when it issued the *April 2011 Pole Attachment Order* that the incumbent carriers would gain the benefit of lower pole attachment rates, but that the ILECs would use the cost savings from those lower rates to ensure that a variety of specific consumer benefits would accrue to consumers as a direct result of those cost savings.² Despite the fact that three years have passed since the *April 2011 Pole Attachment Order* was released, the ILECs have never demonstrated that those specific consumer benefits have been achieved. We also indicated that, based on research and general industry knowledge, the benefits very likely have not been achieved.

¹ *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240 (2011) (“*April 2011 Pole Attachment Order*”).

² *Id.*, ¶ 208.

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We also indicated that FPL is considering filing a petition for declaratory ruling requesting that the Commission examine whether the ILECs have delivered the specific consumer benefits, as promised, which could include a request for a further rulemaking to consider whether the rules should be amended to eliminate the lower rates previously extended to incumbents.

As required by Section 1.1206(b), this *ex parte* notification is being filed electronically for inclusion in the public record of the above-referenced proceedings. If you have any questions or require additional information, please do not hesitate to contact me at 202.659.6655.

Sincerely,

/s/ James C. Falvey
James C. Falvey
Counsel for Florida Power & Light

cc: Deena Shetler (via e-mail)
Elizabeth McIntyre (via e-mail)
Marvin Sacks (via e-mail)
Richard Kwiatkowski (via e-mail)
Lisa Gelb (via e-mail)
Charles Zdebski (via e-mail)
Earl Comstock (via e-mail)