

Via ECFS

EX PARTE NOTICE

April 4, 2018

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

Re: *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84*

Dear Ms. Dortch:

On April 3, 2018, the undersigned from INCOMPAS, Jeff Strenkowski of Uniti Fiber, and Tyler Newhall representing Rocket Fiber met with Adam Copeland, Lisa Hone, Daniel Kahn, Mike Ray, and Annick Banoun of the Wireline Competition Bureau to discuss policies related to pole attachments. In particular, we expressed support for the adoption of a one-touch, make-ready (“OTMR”) policy as recommended by the Commission’s Broadband Deployment Advisory Committee.

The companies reported that the typical timeframe for most pole attachment make-ready work under the existing policy is between 180 and 365 days. While make-ready work generally could be performed in a single day, delays are generally caused by the consecutive nature of make-ready work which, under the current process, requires multiple parties to deploy multiple crews to move multiple attachments. We discussed that these delays result in less deployment than would otherwise be feasible, significantly in rural areas.

Specifically, Uniti Fiber explained that, largely as a result of the delays it faces when trying to undertake pole attachments, over the last ten years, it (legacy Southern Light) has gone from a 70% aerial network to roughly a 40% aerial network (across current Uniti Fiber). Speed to market often outweighs costs, but these costs are substantial. The typical expense per foot for an underground deployment is anywhere from twice to as much as thirty times more expensive than for a typical aerial deployment, foot for foot. Thus, the necessity of building underground to meet project deadlines makes deployments at least twice as expensive as builds above ground. This, of course, takes away capital that could be used to further expand infrastructure deployment if aerial deployments were able to be installed in a timely manner. Uniti Fiber's network is deployed across a wide range of urban, suburban, exurban and rural areas. The delays associated with the pole attachment process result in deployment underground, diverting important capital to these more expensive builds and reducing deployment in all of these areas.

We also discussed some of the flaws in the ASAP proposal put forth in the record by NCTA and others.

Namely,

1. **Expedited Make-Ready** - Allowing the existing attacher the option of performing their own make-ready work – regardless of how short a time to accomplish – does not address the fundamental problem with the current system. Make-ready work cannot be concurrent when there are multiple attachers, so new attachers would still experience significant delays as multiple parties send individual contractors to undertake the make-ready work. This proposal would also not eliminate multi-truck rolls that are disruptive to communities, inefficient, and costly to new deployers.
2. **Indemnification** - Requiring new attachers to indemnify existing attachers for consequential damages would be a poison pill for new deployment. The threat of unlimited liability for new attachers would destroy their business model.
3. **Pre-Selected Contractor** - Allowing existing attachers to pre-select the contractor would perpetuate the existing problem as the various existing attachers could select different contractors, leading again to multiple truck rolls and climbs on the pole, again, causing significant delays and disruptions to communities. It also hinders the new attachers ability to get fair rates because the contractor would have a monopoly market position over the new attacher. The control over the process by existing attachers – who are often competitors of the new attacher – could lead to anti-competitive behavior.

We also discussed the proposition that the existing attachers should not be able to exempt themselves from OTMR rules due to private labor agreements; existing attachers should have the right to object to contractors only for a set period of time after the contractors are put on a pole owner's approved contractors list (and only in extraordinary circumstances should the objections be allowed at the time of a new contractor on the list is starting a project); and, the approved contractor should be tasked with making the determination as to whether or not make-ready work is simple or complex.

We urge the Commission to move expeditiously to adopt rules that provide new attachers the option to invoke OTMR for pole attachments and speed deployment.

Respectfully submitted,

/s/ Karen Reidy

Karen Reidy
Vice President, Regulatory Affairs

cc: Adam Copeland
Lisa Hone
Daniel Kahn
Mike Ray
Annick Banoun