

January 3, 2018

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street SW  
Washington DC 20554

RE: Ex Parte. In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Broadband Deployment, GN Docket No. 17-183

Dear Ms. Dortch:

The Communications Workers of America (CWA) and the Utility Workers Union of America (UWUA) strongly support policies to accelerate deployment of high-speed broadband infrastructure to all Americans, consistent with creating and maintaining good jobs in the telecommunications and utility sectors and throughout the U.S. economy. We recognize that pole attachments are a key input for many broadband deployment projects. As the Broadband Deployment Advisory Committee (BDAC) and the Commission consider recommended changes to the current pole attachment rules, concern for public and worker safety and compliance with all legal requirements, including union contracts, must be paramount.

CWA represents outside plant technicians who do make-ready work for incumbent local exchange carriers, and in many locations CWA also represents workers who prepare surveys, cost estimates, and complete inspections of pole attachment work. The Utility Workers Union of America (UWUA) represents electric utility overhead and underground line crews, as well as substation and generating plant workers. Our members are on the front-lines of this work and best understand how to ensure that the work is done in a safe and reliable manner.

Pole attachment work is complex, and if done incorrectly, can lead to dangerous conditions for workers and the public. In both the electric supply and communications space, unskilled work could leave heavy terminals and wires hanging without proper support. Ungrounded wires could pose electrocution risks. Incorrect placement or overloading equipment on damaged or decaying poles could lead to poles falling in the public right-of-way. In sum, make-ready work in the communications space is not "simple" work and can be deadly in the electric supply space when working with live high voltage lines.

The BDAC and the Commission must reject any make-ready proposals that short-circuit safe processes and violate legally binding contracts. Skilled, properly trained workers who know the equipment, the condition of the poles, and have proper certification can best protect the public and others who work on the equipment. It is for this reason that both telecom and utility employers have signed collective bargaining agreements with our unions that give jurisdiction over make-ready work to the union-represented outside plant technicians and line crews. CWA and Utility Workers members have the training, certification, experience, and knowledge of the

equipment and poles to ensure that the work is done safely and correctly.

In the communications space, CWA collective bargaining agreements give jurisdiction over equipment and facilities on pole attachments to the workers that we represent. In this letter we cite illustrative but by no means exhaustive examples. A collective bargaining agreement between CWA District 3 (which covers nine southeastern states) and AT&T Southeast (d/b/a BellSouth Telecommunications) includes Article 14, a provision that has been in the agreement for decades. In Article 14, BellSouth agrees “to use only Company employees on work involving the construction, maintenance, removal and/or repair of the following types of plant: All aerial outside plant...underground cable and splicing of buried cable...equipment which constitutes any part of a communication circuit.”<sup>1</sup> Article 14 is of critical importance to CWA-represented workers, as it protects the integrity of the bargaining unit and the integrity of the telecommunications circuit from which CWA-represented employees earn their living. CWA and Verizon New York also have a contractual letter – dating back to 1974 – that obligates Verizon New York to use CWA-represented employees to perform make-ready work.<sup>2</sup> In West Virginia, the collective bargaining agreement between Frontier and CWA provides that make-ready work on Frontier equipment and facilities is work that will be “assigned exclusively to employees of the Company [Frontier] represented by CWA.”<sup>3</sup> In California, CWA-represented employees do make-ready work on AT&T equipment.

In the electric supply space, the UWUA has consistently advocated, in jurisdictions across the country, that line work in the electric supply space must be performed by properly trained, in-house crews possessing the highest levels of professional certification, a familiarity with a particular utility company’s systems, and who are accustomed to working in a culture of safety inculcated via long-standing working relationships and labor agreements with UWUA member employers.

Allowing third-party contractors to do make-ready work violates the legally binding contracts negotiated between our unions and our members’ employers, and undermines good, career jobs in communities across the United States. The BDAC and the Commission must not adopt make-ready proposals that infringe on collective bargaining agreements, and by extension violate the rights of the workers who bargained them.

Telecom and utility employers agree. In their comments to the Commission in the *Wireline Broadband Deployment* proceeding, AT&T emphasized that any pole attachment reform must be consistent with collective bargaining agreements. “AT&T values its workforce,” the company stated, “and has negotiated fair collective

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<sup>1</sup> Article 14, Agreement between Communications Workers of America and BellSouth Telecommunications, LLC, effective Aug. 9, 2015 – Aug. 3, 2019.

<sup>2</sup> Letter of Agreement between Communications Workers of America and New York Telephone (predecessor to Verizon), dated Aug. 11, 1974. This letter of agreement has been renewed in every subsequent contract, most recently in the CWA/Verizon NY collective bargaining agreement signed May 29, 2016.

<sup>3</sup> Affidavit of Edward Mooney, *Frontier West Virginia, Inc. v. Governor James C. Justice II*, U.S. District Court for the Southern District of West Virginia, Civil Action No. 2:17-cv-03560, Aug. 31, 2017.

bargaining agreements allowing its bargained-for workforce to perform all work on AT&T's facilities in certain parts of the country. An OMTR [One-Touch Make-Ready] regime should not impair the collective bargaining agreements of any existing attacher by mandating that independent contractors perform make-ready work in all situations. The unionized employees of AT&T and other, similar attachers have performed in this manner for decades, and it would be unreasonable for an OTMR rule to upset those settled, negotiated expectations and contractual obligations."<sup>4</sup> The Coalition of Concerned Utilities, representing 32 electric utilities, noted that "many [electrical worker] union contracts place restrictions on the percentage of such make-ready work that can be done by contractors."<sup>5</sup>

CWA and the Utility Workers have reviewed the pole attachment "make-ready" recommendations put forward by the BDAC's Competitive Access to Broadband Infrastructure Working Group in its Final Report submitted on November 9, 2017.<sup>6</sup> These recommendations propose clear violations of legally binding collective bargaining proposals and would put worker and public safety at risk.

Proposal #1 of the Methods and Procedures Committee (pages 15-18) aims to address safety and reliability concerns related to third party make-ready work through a process of contractor self-certification, differentiating between self-certification in the communications space, power space, and for wireless attachments.<sup>7</sup> The proposal states that in the communications space, pole owners "may not deny the use of contractors that follow minimum self-certification requirements."<sup>8</sup> In the power space and for wireless attachments, the Working Group recommends pole owners allow third parties to perform make-ready work that is "reasonably likely not to cause an outage."<sup>9</sup> It is not clear who would make that determination. Proposal #2 of the Methods and Procedures Committee (pages 19-22) encourages the Commission to enact one-touch make-ready rules that would not allow pole owners to withhold permission "unreasonably" from third parties' self-certified contractors.<sup>10</sup>

As an initial matter, self-certification does not provide the necessary oversight to ensure that third-party contractors meet the safety and reliability standards and are held accountable for poor or unsafe work. Our members in the field report multiple instances of shoddy work by third-parties. In our members' experiences, it can be difficult, and sometimes not possible, to get the third-party contractor to return to the field to correct the work. Further, the recommendations that would require pole owners to permit third-parties to move the equipment of our telecom and utility employers would violate longstanding, legally binding, collective bargaining agreements.

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<sup>4</sup> AT&T Comments, WC Docket No. 17-84, June 15, 2017, p. 17.

<sup>5</sup> Coalition of Concerned Utilities, WC Docket No. 17-84, June 15, 2017, p. 26.

<sup>6</sup> Final Report, Competitive Access to Broadband Infrastructure Working Group, Presented to the FCC Broadband Deployment Advisory Committee, Nov. 9, 2017 ("Competitive Access Working Group Final Report").

<sup>7</sup> Competitive Access Working Group Final Report, pp. 15-18.

<sup>8</sup> *Id.*, p. 16.

<sup>9</sup> *Id.*, p. 18.

<sup>10</sup> *Id.*, p. 21

CWA and the Utility Workers encourage the BDAC to reconsider the aforementioned self-certification proposals. At a minimum, the BDAC recommendations and any subsequent Commission action must include carve-out language that would acknowledge the primacy of collectively-bargained agreements regarding jurisdiction of make-ready work while serving to protect and promote good, career jobs in communities across the United States.

Thank you for your consideration of this matter.

Sincerely,



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