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October 26, 2018

Ms Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrassburg, PA 17105-3265

RE: Notice of Proposed Rulemaking in Docket L-2018-3002672

Dear Ms. Chiavetta:

Please accept this letter as the comments of MAW Communications Inc. regarding the Commission's Notice of Proposed Rulemaking relating to pole attachments.

Background of MAW Communications

MAW Communications, Inc., is a family owned and operated Pennsylvania Public Utility in our twenty first year in business. We specialize in the delivery of telecommunication services to health facilities, educational institutions, local government, emergency responders, telecommunications carriers, enterprise and small businesses, and residents. Our all fiber-optic network includes over 4,500 strand miles of fiber in Berks and Lancaster counties which includes over 5,000 homes passed within both counties.

MAW Communications and the City of Lancaster entered into a private public partnership to build and maintain a municipal broadband network for the City servicing traffic controllers, safety cameras, and administrative buildings. This was done through a Municipal Carrier Agreement (MCA) which was the first of its kind in Pennsylvania. The agreement was filed with the PA PUC. Through the MCA MAW and the City of Lancaster created the first Pennsylvanian community broadband initiative, LanCity Connect. LanCity Connect is in its second year of operation and has over 300 residential and business class subscribers. Residential subscribers are offered four service options: 50 megabits per second (Mbps) for \$34.99 per month, 150 Mbps for \$49.99 per month, 300 Mbps for 75.99 per month, and 1,000 Mbps for \$89.99 per month. All services offered are symmetrical upload and download speeds.

State-Level Regulation

MAW Communications is emphatically in favor of the Commission's decision to regulate pole attachments. MAW believes it is imperative that PA pole owners and attachers are outfitted with a local regulatory body that is keen to the complexities of pole attachments specific to PA. We believe the Commission could use their expertise regarding Pennsylvania electric and telecommunications utilities, distribution services, and National Electrical Safety Code (NESC) to provide a basis for regulation and expedited dispute resolution to assist in the deployment of broadband throughout the state.

Adoption of Current and Future Law

MAW supports the Commission's initial step in adopting the current Federal Communications Commission's (FCC) regulations and rules. However, MAW does not support an immediate adoption of future FCC rule changes. We believe it is vital for the PA PUC to go through a due diligence and comment period before adopting future FCC rulemakings, but this process should run as close to in

tandem as possible with the FCC comment and determination process if PA desires to be up to date with national standards and regulations. MAW believes this process would ensure the PA PUC and pole owners and attachers have adequate time to potentially suggest modifications to any future Federal Law to best serve the needs of Pennsylvanian pole owners, attachers, and subscribers.

Working Group or Committee of Private and Public Utilities

MAW believes there is intrinsic value in establishing a working group of PA public and private entities to discuss pole attachments issues. An established group or committee would create a forum where both owners and attachers can openly discuss their needs and responsibilities and come to consensus on how to best update and install telecommunications infrastructure throughout PA. This group could ensure the needs of both parties are discussed and met to reach the end goal of deploying high speed broadband throughout the state.

Additionally, MAW believes there are other adherent benefits of an established group and would suggest that such group would be empowered and enabled to generate a state-wide standardized pole attachment agreement that encompasses the needs of pole owners and attachers and best enables safe but expedited broadband deployment. As the group would be comprised of both owners and attachers that are experienced and knowledgeable about the complexities of pole attachments, MAW suggests this group furthermore could act as an ombudsman or along side the Commission to impartially resolve disputes between owners and attachers.

Standardized Pole Attachment Agreements

It makes sense that there is a standardized pole attachment agreement established between all PA pole owners and attachers. A standardized pole attachment agreement defines universal guidelines and regulations between pole owners and attachers. Such an agreement would eliminate disputes regarding individual interpretations of separate agreements amongst parties, thus decreasing disputes that would be before the Commission. However, MAW would propose that such an agreement be shaped through a working group or committee comprised of both public and private entities to ensure the needs of owners and attachers are encompassed in the agreement. MAW also suggests that such an agreement would be subject to a comment period to ensure all PA entities have an opportunity to review and suggest modifications before being adopted and enforced throughout the state.

Comprehensive Registry of Poles

MAW abundantly supports the concept of a comprehensive registry of poles accessible for current and future attachers. A PA PUC regulated and mandated registry with mandatory updates will facilitate an accelerated broadband development and assist in expedited disputes between pole owners and attachers as well. MAW believes such a database could potentially decrease costly repeated surveying of poles which would decrease financial barriers and time constraints on broadband deployment.

MAW additionally suggests that pole owners are required to keep up to date records current with a minimum of 3 years, although continuous updates would be encouraged. All facility owners are required to have up to date records of their poles and attachments, therefore MAW does not believe this would cause an additional financial burden on pole owners.

MAW suggests that the system be universal, and include the date the pole was last surveyed, geographical position of the pole, and include all heights of attachments, type of attachments, type of facilities, and images of each pole. Such a database could be set up in a standardized Geospatial Database format that could be updated in real time through application program interfaces (API's) and include the

necessary meta data for engineering paths and facility routes. Such a system could also help the Commission and PA government identify locations in PA where high-speed broadband is not easily accessible with the current infrastructure.

Unauthorized Attachments

MAW believes that if the Commission adopted a state-wide registry of poles with a mandatory 3-year update policy, pole owners should not experience an unauthorized attachment affixed on pole longer than 3 years. Therefore, MAW suggests that a fee totaling no more than three times annual pole attachment rate for any unauthorized attachment would suffice for all unauthorized attachments found on a pole.

It is MAW's experience that removals largely affect the subscribers of the removed network, thus creating hardship for PA residences, businesses, educational institutions, healthcare facilities, and governmental institutions. Consequently, MAW suggests that removals of unauthorized attachments are not permissible. Although, MAW recommends that if an unauthorized attachment is found to be also non-compliant with the NESC then the attacher should have 30 days following notification of the pole owner to bring the attachment to compliance with minimal potential disruption to subscribers' service. MAW also proposes, if the attacher fails to bring the attachment into compliance within 30 days, the pole owner is enabled to bring that attachment up to compliance and the attacher is held financially responsible and receives a standardized fine per pole attachment that is not compliant. The attacher could dispute all unauthorized attachments and non-compliant unauthorized attachments and must do so within 10 days of receipt of notification.

Expedited Depute Resolution

MAW believes there is teeming value in the Commission adopting an expedited dispute resolution process. It is MAW's experience that the costs associated with filing a formal complaint and length of time before a determination with the current FCC process deters utilities from exploiting such routes. This leaves some utilities either left without a mechanism for resolution and/or choosing settings such as a local court to settle disputes. Although local courts have their own inherent value, often they lack the expertise and knowledge of outside plant and the complexities of pole attachments that are paramount to dispute resolution. Therefore, MAW adamantly supports the adoption of an expedited resolution process similar to that of the 2004 New York Public Service Commission's order Adopting Policy Statement on Pole Attachments. MAW believes the process outlined where a dispute is discussed for a minimum of 10 days at an intermediate or executive level and then appealed to a "Company Ombudsman" for consideration for an additional 12 days before the dispute is taken to the Commission, for final determination would be highly beneficial to expeditiously resolving disputes and ensuring accelerated broadband deployment state-wide.

MAW also believes this process would increase the probability that disputes would be resolved in a manner that is mutually beneficial for both parties. Additionally, MAW believes this process to potentially lessen the number of disputes escalating to the Commission for resolution as it requires the parties to discuss the dispute and enables a third party to provide additional unbiased arbitration before escalating to the Commission for final determination.

MAW also supports New York's "Pendency" policy stating:

"Disputed work shall continue to the extent possible during a dispute. Where the dispute is over cost, the work shall continue as long as the Attacher pays 50% of the total amount

of the disputed invoice(s). Payment of the disputed invoices shall note that they are being paid under protest and subject to reconciliation following resolution of the dispute. If the dispute is over the form or location of the attachment or the use of a temporary attachment, it is not expected that the disputed work will continue.”

It is MAW’s experience that lengthy disputes regarding rates not only are financially burdensome for the attacher and the pole owner but the burden is also felt by subscribers waiting for high speed broadband service. Consequently, the longer disputes continue the longer delayed deployment can become, thus causing Pennsylvanian residents and businesses to wait longer for the high-speed broadband they require in today’s digital age. This process would allow for work to continue while a dispute is in the process of resolution which facilitates accelerated broadband deployment throughout the state.

Estimate of forecasted number of disputes

Although MAW cannot estimate the number of disputes the Commission may receive, MAW believes that establishment of a standardized pole attachment agreement would lessen the overall number of disputes received. It is MAW’s understanding there are currently two formal complaints involving PA entities in front of the FCC awaiting determination and another dispute involving two PA entities held in PA local court. MAW believes it would be appropriate to assume there is potential for one or all of these cases to seek resolution through the Commission to resolve their disputes, if such option was available.

Funding to Support New Commission Responsibilities

It is MAW’s belief that as PA entities both the pole owners and attachers have a responsibility to our customers to resolve disputes in a mutually beneficial manor that ensures accelerated deployment of necessary infrastructure to service Pennsylvanians. Therefore, MAW proposes that the expenses are shared equally by both disputing parties. MAW suggests that if the Commission so chooses to adopt similar expedited resolution processes utilized by the NY Public Service Commission, a well-defined timeline and standardized timeline would be established thus creating normalized expenses that can be determined annually by the Commission. These shared costs would total the expenses for the ombudsman and the commission and/or working group to render a determination on the dispute. MAW believes this would intrinsically motivate both parties to resolve various matters before escalating to the Commission as both parties are equally financially responsible for expenses of dispute resolution. Therefore, resulting in accelerated deployment of necessary infrastructure and normalize unknown financial barriers of formal dispute resolution that are synonymous with the current FCC complaint process.

MAW Communications appreciated the opportunity to have submitted these comments and would welcome the opportunity to further participate in this process.

Sincerely,



Mindy Wiczowski
Vice President

Cc: Shaun A Sparks (by email)
Colin W. Scott (by email)