

Community Technology & Telecommunications Commission

Federal “One-touch Make-ready Policy”
(Federal OTMR Policy)

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Opening Remarks

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Recent Federal Communications Commission action:

- Third Report and Order and Declaratory Ruling (FCC 18-111) - *Accelerating Broadband Deployment by Removing Barriers to Infrastructure Investment* – (WC Docket No. 17-84; WT Docket No. 17-79, FCC 18-111) Date: August 3, 2018
 - Imposes: “Federal OTMR Policy”
- Declaratory Ruling and Third Report and Order (FCC 18-133) - *Accelerating Broadband Deployment by Removing Barriers to Infrastructure Investment* (WT Docket No. 17-79; WC Docket 17-84, FCC 18-133) Date: September 27, 2018
 - Imposes: “Small Cell Order - Shot Clock Requirements”



What is One-touch Make-ready?

One-touch Make-ready (OTMR) – Federal framework instituting a OTMR regime, in which a new attacher may elect to perform all simple work to prepare a pole for new wireline attachments in the communications space.

Pole Attachments – The process by which communication companies can collocate communications infrastructure on existing electric utility poles.

Simple Transfers – Rearrangement or transfer of third-party attachments on an existing pole or onto a new pole that will not result in cutting and splicing the communications facility supported by the attachment subject to rearrangement or transfer.

Complex Transfers – Make ready that is (i) likely to result in a service outage; (ii) likely to damage existing facilities; (iii) requiring splicing of an existing attacher's wire; (iv) involving placement relocation of a wireless facility attached to a pole, including small-cell pole-top attachments; or (v) requiring pole replacements.



Austin Energy Infrastructure Asset Management (IAM)

- Manages attachments to Austin Energy infrastructure
 - Wireline Attachments
 - Wireless Attachments (Small Cell)
- Secures and administers agreements for attachment
- Processes applications
 - Ensures compliance with applicable laws and Austin Energy standards
- Bills for fees and services and provides customer service
- **Pole attachers coordinate pole transfers independently**



Austin Energy IAM attachment management responsibilities:

- Inspects poles and attachments
- Reviews applications and pole loading analysis
- Ensures compliance with applicable laws and Austin Energy standards
- Identifies incidents of non-compliance
- Responds to citizen complaints regarding non-compliant 3rd party attachments
- Notifies attachers of attachment issues
- Inspects to confirm that non-compliant attachments addressed
- Creates designs for Small Cell and wireline installations
- Schedules and inspects make-ready construction
- Establishes electric service for Small Cell attachments
- Administers program to determine whether electrical contractors are qualified to perform electrical make-ready work on behalf of carriers



How does Austin Energy manage pole transfers today?

The IAM group notifies the attachers of a transfer using a web based application, National Joint Use Notification System (NJUNS). The IAM group creates NJUNS tickets for transfers, non-compliant attachments and new contacts. NJUNS tickets are tracked by the IAM group to safeguard that attachment moves are done correctly and in a timely manner. Each attacher, starting with the top attacher, has thirty days to move its attachment. The attachers below the top attacher cannot move until the top attacher has been transferred. Utilizing NJUNS, the IAM group as of 2016 has removed 391 double poles and closed 328 transfer tickets.



How does Austin Energy manage pole transfers today?



Federal OTMR Policy (FCC 18-111)

- Third Report and Order:

1. Revises rules and regulations governing the pole attachment “make-ready” process, including the establishment of a one-touch make-ready (OTMR) process;
2. Codify the FCC’s existing precedent that permits attachers to “over-lash” existing wires without first seeking the utility’s approval while allowing the utility to request reasonable advance notice of over-lashing;
3. Expressly acknowledged that new pole attachment rules do not apply to poles owned by government entities or cooperatives that are exempt from federal pole attachment regulation;
4. Make clear that the FCC will preempt, on an expedited case-by-case basis, state and local laws that inhibit the rebuilding or restoration of broadband infrastructure after a disaster;
5. Likely to have an impact on public power utilities (portions of federal pole attachment rules incorporated into state law).

- Declaratory Ruling:

Prohibits express moratoria (regulations or requirements preventing processing of applications) and de facto moratoria (action that effectively halts or suspends processing of applications) imposed by state and local governments on applications and permits to deploy wireless or wireline communications services and/or facilities



What is the status of the Federal OTMR Policy (FCC 18-111)?

- Challenges:
- Petition for Review – 11/15/18 - APPA and a number of utilities (including Centerpoint Energy and ONCOR Electric Utility)
- Petition for Reconsideration – 10-15-18 – *Coalition of Concerned Utilities*
- APPA Appeal argues that the two orders cover the same subject matter and from the same FCC docket, and should be transferred to the 9th Circuit because the appeals there were filed earlier than the 10th Circuit appeals.
- FCC Wireless Telecommunications Bureau – Denied National League of Cities request to stay implementation pending judicial review (12-10-18).
- Basis for challenges: Preemption of state and local laws governing access to the right of way, including rates, terms or conditions of pole attachment agreements; benefits one set of attachers at the expense of the other; safety, conflicts; protection of electric distribution system, etc.



- **Potential benefits of Federal One-touch Make-ready Policy:**
 - Efficiency in having a single crew accomplish all make-ready work on a pole
 - May reduce some administrative duties on carriers
 - May permit new carriers to more easily enter the market
 - May reduce vehicular traffic
 - Reduce double pole count
- **Potential concerns regarding Federal One-touch Make-ready Policy:**
 - Criticism that the policy's definitions of simple and complex processes do not provide enough real-world guidance to attachers and utilities, setting the stage for disputes and delays
 - Does not allow utilities to recover costs to: perform make-ready estimates; perform over-lashing review and inspections; and address pre-existing violations
 - OTMR does not apply to complex make-ready
 - Some carriers adverse to third parties making changes to their equipment
 - Some carriers argue that their internal processes for make-ready work are not taken into account
 - Network segments may involve a mix of simple and complex transfers
 - Dangerous conditions could be created or increased by over-lashing poles without proper engineering analysis
 - Does not completely remove the electric space self-help remedy opposed by the *Coalition of Concerned Utilities*
 - The short make-ready construction deadline is not possible for most utilities to meet



QUESTIONS?



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