

RE: Case 22-M-0101 - Proceeding to Review Certain Pole Attachment Rules

The Communications Workers of America District 1 (CWA) submits these comments in response to the New York Public Service Commission's (PSC) Notice Soliciting Comments on the recommendations included in the DPS Staff White Paper on pole attachments.¹ CWA District 1 represents more than 15,000 telecommunications workers in the State of New York. As the employees who build and maintain critical telecommunications infrastructure, and as consumers who rely on high-quality internet service, our members have a deep interest in this proceeding.

CWA supports the PSC's proposal to create a working group of all interested entities to meet regularly and facilitate discussion and resolution of issues relating to pole attachment. CWA urges the PSC to ensure telecom labor unions and municipal representatives in any working group as these entities would be able to provide important perspectives on the on-the-ground realities of pole attachments.

CWA would like to reiterate its longstanding view that the responsibility for pole attachment work should be carried out by those who are best qualified to do the work -- the skilled workforces of communications service providers and electric utilities and not lower-wage third-party attachers and their contractors. **As such, CWA remains opposed to One Touch Make Ready (OTMR).** As CWA detailed in its April 7, 2022 comments in this docket, even so-called "simple" pole attachment work is intricate, and all pole attachment has safety implications.² If done improperly, pole attachments can cause facility damage, service interruption, and hazardous circumstances for workers and the public. Unskilled attachment work could leave heavy terminals and wires hanging without proper support. Ungrounded wires could create electrocution risks. Incorrect placement or overloading equipment on damaged or decaying poles could lead to poles falling into private property or the public right-of-way. Skilled, properly trained, career company employees are in the best position to do make-ready work safely and properly. They know the equipment, the condition of the poles, the rules regulating attachment placement, and have been properly trained.

In addition to the enormous safety implications, allowing lower-wage third-party contractors to conduct OTMR work has the potential to accelerate the long-term wage stagnation in the

¹ New York Public Service Commission, *Notice Seeking Comments*, Case 22-M-0101 (Dec. 20, 2023).

² See Comments of Communications Workers of America District 1, New York Public Service Commission, *Notice Seeking Comments*, Case 22-M-0101 (Apr. 7, 2022).

telecommunications sector driven by contracting practices that incentive a race to the bottom.³ It is for these reasons that CWA remains in opposition to the proposed OTMR regime.

While CWA supports the requirement that such work must not interfere with CBAs, CWA is concerned that without robust monitoring and enforcement by the PSC as well as public transparency, there would be no way to hold those who violate this vital protection accountable. CWA suggests the PSC provide greater clarity on the proposed new voluntary pole attachment process and the situations in which it would or would not apply. In what specific situations would this process apply, and how can it be assured not to undercut collectively bargained protections? Are there situations other than those involving CBAs where an attacher is not permitted to conduct “simple” OTMR work, or in what situations can a pole owner deny an attacher’s attempt to conduct “simple” OTMR work?

We recommend the following:

- 1. Creating a third-party attacher vetting, accountability and transparency process & publicly available database**
 - (a) that third-party attachers must use utility-vetted and approved contractors,
 - (b) require contractors to show proof of workers compensation insurance,
 - (c) require contractors to certify their employees have an OSHA 10 card,
 - (d) require attachers to submit a photograph of completed work with associated GPS coordinate, date, and time metadata for completed work to a publicly available database,
 - (e) enforce contractor requirements by creating a publicly accessible electronic database for contractor verification,
 - (f) prohibit attachers and their contractors from working above the communications space

- 2. Ensure robust enforcement of unsafe work and violations of CBA protections**
 - (a) include a penalty structure for contractors that fail to comply with these requirements and set up a system for complaints to be submitted to the PSC that requires investigation and resolution.

³ See Comments of Comments of Communications Workers of America District 9, Jobs With Justice San Francisco, Labor Network For Sustainability, United Steelworkers District 12, And United Steelworkers Local 675 regarding Broadband Equity, Access, and Deployment Program, Order Instituting Rulemaking Proceeding to Consider Rules to Implement the Broadband Equity, Access, and Deployment Program, California Public Utilities Commission, R.23-02-016, at 3-6 (April 17, 2023); Comment of CWA to the Federal Trade Commission and Department of Justice on Labor Market Competition (December 2021), https://cwa-union.org/sites/default/files/2024-02/comments_to_ftc-doj_workshop_on_labor_markets_communications_workers_of_america_dec_2021.pdf.

CWA is in support of the proposal to require pole owners to file annual reports detailing third-party attachments. In addition to the proposed minimum reporting requirements, such reports should also include names of the contractor or subcontractors performing the work, and the contractor's certification and licensure requirements, including whether technicians are required to have completed OSHA safety training or any training required by law. This information can assist the PSC in ensuring accountability and improving worker and public safety.

Lastly, CWA supports the staff's recommendation to ban the installation of telecommunications pole attachment and make-ready work within the electric space on the pole and the requirement that all make-ready work, with some exceptions, comply with the National Electric Safety Code (NESC) at a minimum. CWA also supports the PSC's goal of establishing a resilient telecommunications network and has been active across state and federal proceedings to address network resiliency requirements.