

Google Fiber Helps Drive National OTMR Policy

Pole attachments have long been a problem for fiber overbuilders that need access to utility poles. With its new one-touch-make-ready rule, the FCC weighed in on their side.

By Sean Buckley

When the FCC issued its one-touch-make-ready (OTMR) ruling in August, the regulator advanced its mission of expanding broadband by removing barriers to deployment – but the genesis of the ruling can be traced to Google Fiber’s efforts. In the face of opposition from AT&T and Comcast, Google Fiber persuaded Louisville, Kentucky, and Nashville, Tennessee, to pass local OTMR ordinances in 2016 – showing how influential Google Fiber has been in changing the broadband dialogue.

What’s telling about Google Fiber’s role in OTMR is that relative to established broadband players, the provider lacks a critical mass of customers.

By allowing new attachers to conduct work themselves, OTMR is intended to simplify pole attachment processes. Previously, new attachers had to wait for multiple parties to move existing facilities. This traditional make-ready process required new entrants such as Google Fiber to wait months for existing providers to move their lines themselves. Google Fiber says that if it can hire its own contractor to move lines to make room for its fiber, it could accelerate rollout and installation timelines.

SUPPORT FOR THE OTMR RULING

Google Fiber hailed the FCC’s ruling to put a shot in the competitive broadband arm.

“We fully support this effort by the FCC and applaud the efforts of Chairman Pai

to remove obstacles that reduce choice and competition for broadband consumers,” said John Burchett, director of public policy for Google Fiber, in a blog post. “As the FCC says in its order, One Touch Make Ready ‘will serve the public interest through greater broadband deployment and competitive entry’ – we couldn’t agree more.”

The Fiber Broadband Association also supported the FCC ruling.

“The recent FCC order will allow a new pole attacher to do make-ready work all at once, rather than having to wait for existing attachers to do it sequentially, which will save significant time and cost,” said Lisa Youngers, president and CEO of the Fiber Broadband Association. “As a result, broadband providers can more expeditiously and cost-effectively upgrade their networks with fiber or deploy fiber in new markets, which facilitate gigabit service to residences, businesses, institutions, and wireless sites.”

Joining service providers in touting OTMR’s potential is Corning, which estimated in a joint study with CMA Strategy Consulting, cited in an FCC filing, that OTMR could drive \$12.6 billion in additional capex investment for FTTP and \$8.8 billion in additional 5G wireless capex. Corning said an OTMR policy would result in 8.3 million additional premises passed by fiber and 5.9 million incremental premises passed by 5G wireless.

SIMPLE AND COMPLEX MAKE-READY

The FCC's OTMR order distinguishes between "simple" and "complex" make-ready work.

Simple make-ready, as previously defined by the Broadband Deployment Advisory Committee, is needed when a new attacher puts new facilities on a pole's communications space and existing attachments can be transferred without any outages or splicing.

Complex make-ready involves more difficult transfers and relocation of existing equipment. Included in this definition is pole replacement.

Incumbent telcos such as AT&T and Verizon aren't on the same page in regard to complex make-ready.

AT&T maintains that complex make-ready should be done by the pole owner to prevent outages and ensure safety.

"Limiting OTMR to routine work would minimize service disruptions, which are inherent in complex make-ready work, such as the transfer of wireless equipment and cable splicing," AT&T said in an FCC filing.

However, Verizon said in a separate FCC filing that OTMR could be applied to complex and simple make-ready. By allowing for these scenarios, current owners and attachers could extend the review process while providing necessary notice to all existing attachers.

Verizon suggested that there should be a "slightly longer notice period before a contractor performs complex OTMR."

VYING FOR PRICE PARITY

Besides defining make-ready types, the FCC sought to bring parity to pole access rates – updating the rules in the regulator's 2011 order.

Incumbent providers (ILECs) claim that in markets where they don't own poles – a number that had dwindled by 2011 – they pay fees far higher than do cable companies or competitive providers (CLECs).

A 2017 USTelecom study showed that while CLECs paid only \$3.00 to \$3.75 per pole, ILECs still paid \$26.00 a pole. The study revealed that in some

Unions fear that OTMR can threaten the safety of workers and the general public and lead to outages. Google Fiber and the FCC dismiss these concerns.

instances, ILECs paid pole attachment rates 1,000 percent higher than their CLEC competitors – and 1,800 percent higher than their cable competitors.

USTelecom found that the ILECs surveyed paid pole owners nearly nine times what the ILECs charged cable providers and almost seven times the rates ILECs charged CLECs. It added that the results are "even more imbalanced than those from the 2008 USTelecom Survey (eight times and six times, respectively)."

Jonathan Spalter, president and CEO of USTelecom, said the FCC's move will give service providers greater incentive to expand broadband services.

"Marketplace rate parity will help spur broadband deployment and competition in all areas of the country – including for our most rural communities and families," Spalter said.

AT&T was satisfied with how the FCC's OTMR ruling addressed rate parity.

"The order promotes fair competition by placing all providers on a path to pole attachment rate parity and incorporates many improvements to the new one-touch-make-ready pole attachment process," said Joan Marsh, executive vice president of regulatory and state external affairs.

CWA WANTS FAIRNESS, SAFETY

The Communications Workers of America (CWA), one of the largest unions representing telecom workers, continues to oppose OTMR policies.

CWA said that enabling competitors to farm out make-ready work to third parties could compromise collective bargaining agreements (CBAs) it has with large telcos such as AT&T, CenturyLink, Frontier and Verizon.

Over the past year, CWA has established contract extensions with the large telcos or is in the process of working on new contracts.

Union locals in Verizon's Northeast and Mid-Atlantic regions and Verizon Connected Solutions voted to ratify four-year extensions of their current contracts, while CWA and AT&T are still working out the details of a new contract in the Midwest region.

But compromising CBAs is only one issue. CWA claims OTMR hinders public safety.

AT&T employee and CWA member Chad Melton cited safety issues such as incorrect wire attachments in Louisville, Kentucky, for example. He explained in an FCC filing that "shoddy" work can "threaten workers and public safety and lead to service problems."

Countering CWA's argument about public safety, Google Fiber said in an amicus brief responding to AT&T's suit against Louisville's ordinance that an OTMR policy could reduce safety issues and outages by reducing the number of truck rolls.

"By adopting a 'climb once' process, or 'one-touch make-ready,' for Louisville Metro's rights-of-way, the Ordinance addresses problems associated with the serial make-ready procedure and thereby helps improve safety and reduce community disruption," Google Fiber said in its filing. "The Louisville Metro Council considered that the Ordinance would 'reduc[e] inefficiencies and congestions on [Louisville] streets.'"

The FCC also dismissed the CWA's concerns, saying that because CWA workers can be present during the make-ready process, the order addresses safety and outage issues.

“We find that CWA’s concerns are already addressed in the proposed OTMR regime through the opportunity for existing attachers to be present for surveys and make-ready work and to conduct post-make-ready inspections on the work performed,” the FCC said in its OTMR order. “Both opportunities provide existing attachers with a safeguard against facility damage and harms that could result from contractor mistakes – and nothing in our adoption of an OTMR regime should be construed as preventing an existing attacher from using union contractors pursuant to an applicable CBA on pole related work not subject to OTMR that the existing attacher is entitled to perform.”

ALTERNATIVE APPROACHES

However compelling OTMR is, it’s not the first effort to change pole attachment processes. Cable operators and the state of Connecticut proposed alternative methods. The history of these proposals shows just how contentious the issue has been.

Comcast and Charter, joined by cable industry associations such as NCTA, remain the loudest opponents to Google Fiber–driven OTMR ordinances.

The NCTA’s Accelerated and Safe Access to Poles (ASAP) 2018 proposal contained three elements: Utilities would more quickly process applications for attachments; existing attachers

would be required to perform make-ready more quickly; and new attachers would be required to use an existing attacher’s contractors to move an existing attacher’s facilities.

However, Google Fiber and Verizon opposed NCTA’s proposal.

“In short, NCTA’s ‘Accelerated and Safe Access to Poles’ proposal does not rectify the most significant problems identified with the existing process. Instead, the NCTA approach would continue today’s problematic make-ready approach, allowing each attacher to individually move its attachment,” Verizon said in an FCC filing.

NCTA was quick to dismiss claims by Google Fiber and Verizon that the ASAP plan represented nothing more than Comcast and Charter trying to push their own agendas.

“Verizon and Google’s opposition to the ASAP proposal is entirely predictable, given that the proposal departs in a number of ways from the extreme positions they have advocated,” NCTA said in an FCC filing.

Comcast and Charter advocated a “right-touch, make-ready” scheme. Under this structure, existing attachers could perform make-ready sequentially within a designated time period, and fines and other penalties would encourage them to meet their deadlines.

However, the FCC said the NCTA’s and cable operators’ proposals would create unrealistic timelines for utilities. “We reject proposals advanced in the record to reform the pole attachment timeline – specifically, ‘right-touch, make-ready’ and NCTA’s ‘Accelerated and Safe Access to Poles’ (‘ASAP’) proposal – which merely modify the current framework rather than using OTMR,” the FCC said in its order.

In 2014, Connecticut adopted the single pole administrator scheme, which aimed to streamline pole attachments by assigning electric distribution companies the responsibility of administering all pole attachment requests and doing the make-ready work.

Currently, the state is battling incumbents over the single pole administrator approach. “The state’s utility regulator has administratively supported the single pole administrator concept, but telecom operators and pole owners have demonstrated concern about potential competition from CLEC entrants, and more work remains to unjam those roadblocks to create a working open access process for attachments,” said Bill Vallee, Connecticut’s broadband policy coordinator. Vallee added that the process was intended to achieve the “benefits of streamlined and accelerated make-ready for all attachers through one truck roll, reduced costs with one engineering study and other administrative costs, and the transparency of a statewide pole attachment database.”

Though it may be too soon to speculate about OTMR’s influence on any particular market or customer group, it’s clear that the FCC has set the stage for a new national policy that will affect the way wireline and wireless providers expand service. ❖

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