



Friday, March 18, 2016

Mr. Brian D. Bartos
CPS Energy
145 Navarro
P.O. Box 1771
San Antonio, TX 78296

Via USPS and via email to: poleattach@cpsenergy.com

Re: Comments about the Standard Pole Attachment Agreement DRAFT dated February 17, 2016

Mr. Bartos,

This letter serves to provide feedback re: the items covered during the February 17, 2016 workshop hosted by CPS Energy and certain items in the DRAFT Standard Pole Attachment Agreement discussed during that workshop. Our feedback is focused primarily on financial issues, given the small business nature of our operations, and our acknowledgment of the benefits to COMMZOOM and similar licensees inherent in the "one-touch" process and standardized permit application processes contemplated by CPS Energy.

First, we suggest that CPS Energy reconsider the performance bond requirements to provide for further segmentation with lower bond amounts applied to licensees with fewer than 25,000 attachments on CPS poles. Basically, the range of 1,000 to 25,000 attachments – and the corresponding increase from \$25,000 to a \$100,000 bond – is a significant range in need of interim steps in between those thresholds. According to our records, COMMZOOM has fewer than 1,500 attachments on CPS Energy poles in those areas.

A \$100,000 bond is capital prohibitive for COMMZOOM – or any licensee – whose total attachment count is at the lower end of that range of 1,000 to 25,000 contacts, even though it may not be prohibitive for a Fortune 50 telecommunications carrier or another municipally-owned or cooperative utility with 25,000 or more attachments. COMMZOOM is party to more than ten other pole attachment agreements, and if one of these other pole owners requires a performance bond at all, it is typically in the range of \$10,000 to \$25,000 – but nowhere close to \$100,000. We suspect that other licensees have similar experience with performance bond requirements with pole owners as well.

Therefore, we respectfully submit the following modifications to the Certification Options and their corresponding performance bond requirements:

Option Certification	# of Attachments (Low End)	# of Attachments (High End)	Performance Bond
Option A	0	300	Exempt
Option B	301	1,000	\$10,000
Option C	1,001	2,500	\$20,000
Option D	2,501	5,000	\$30,000
Option E	5,001	10,000	\$50,000
Option F	10,001	20,000	\$100,000
Option G	20,001	>30,000	\$300,000
Option H	30,001	<30,001	\$500,000

The main reason for this request is that bank-secured letters of credit require collateral in the form of a certificate of deposit (or a similar cash instrument) that ties up critical capital for an indefinite period of time. As a privately-funded, locally-owned small business, COMMZOOM has limited capital that is budgeted for system improvements that serve our customers, who are also CPS Energy customers, and the dedication of liquid assets to performance bonds for an indefinite period is onerous.

Also, surety requirements for a traditional performance bond (in lieu of a bank-secured letter of credit) are prohibitive for a small business and require a secured interest in 100% of the company's assets – even though the bond may only be \$10,000 or \$20,000 – and require personal guaranties from the company's principals and investors, essentially eliminating them as a viable option for a performance bond.

This leaves a company like COMMZOOM with a bank-secured letter of credit as the only viable option, which ties up cash indefinitely, as explained earlier. Each dollar of a performance bond nominal value represents one dollar not available for investing in improving the plant and improving services to our customers.

Second, we request a shorter notice period for Overlashing existing attachments on CPS poles. Would CPS Energy consider a 15-day notice period for Overlashing?

Third, the draft agreement provides for no indemnification to licensees by CPS Energy. While "market" conditions seem to be that indemnification provisions are heavily favorable to the pole owner in other pole attachment agreements to which we are a party, those agreements do not preclude indemnification by the pole owner entirely. We respectfully submit that CPS Energy include in its pole attachment agreement basic indemnification language that provides indemnification to licensees in the event of gross negligence or willful misconduct by CPS Energy and/or its employees or agents. We will be happy to provide sample language for consideration by CPS Energy. We are realistic in our expectations here, but again, the lack of minimal indemnification by the pole owner is not market.

Please reply to CFO@commZoom.com to confirm your receipt of these comments. We look forward to working with you to finalize the formal pole attachment agreement.

Best regards,



Jacob T. Gray
Chief Financial Officer/Chief Operating Officer
210J 736-3376, ext. 1004
CFO@commZoom.com