

GO/T&E COMMITTEE #1  
June 27, 2013

Discussion

**MEMORANDUM**

June 25, 2013

TO: Government Operations and Fiscal Policy (GO) Committee  
Transportation, Infrastructure, Energy and Environment (T&E) Committee

FROM:  Keith Levchenko, Senior Legislative Analyst

SUBJECT: **Discussion:** Policy Regarding Utility Poles

The following officials and staff are expected to participate in this discussion:

- Joseph Askew, Vice President of Government Relations, Verizon
- Joshua Bokee, Director, Government Affairs, Beltway Region, Maryland, Comcast
- Jerry Pasternak, Pepco Region Vice President – Maryland Affairs
- Mitsuko R. Herrera, Cable and Broadband Services Administrator
- Marjorie Williams, Program Manager II, Office of Cable and Broadband Services
- Jan Wilson, Project Manager, Division of Building Design and Construction, Department of General Services
- Emil Wolanin, Chief, Division of Traffic Engineering and Operations, Department of Transportation
- Atiq Panjshiri, Manager, Land Development – Right-of-Way Plan Review Section, Department of Permitting Services

**Background**

The Council periodically receives complaints from County residents regarding surplus utility poles and/or utility poles that are in problematic locations. These issues can involve aesthetics, traffic sight line concerns, and pedestrian accessibility. Councilmember Ervin requested that the GO and T&E Committees discuss these utility pole issues with Pepco, Comcast, Verizon, and with County Government staff.

Utility poles provide valuable space for electricity and communication equipment along many rights-of-way throughout the County, and there are lots of these poles. According to Pepco, Pepco owns 84,471 poles (as of June 13). Many of these poles also house equipment for other entities, including Verizon, Comcast, County Government, and others. The other electric utilities in the County (Potomac

Edison and BG&E) also own some utility poles. Verizon also owns some utility poles given its history as a provider of telephone service in the County.

### County Government Department Roles

The Office of Cable and Broadband Services (within the Department of Technology Services) administers the cable TV franchise agreements for the County and participating municipalities.

The Department of Permitting Services issues permits for utility pole work within the right-of-way.

The Department of Transportation (DOT) has a limited role with respect to installation, repair, relocation and removal of utility poles in that DOT reviews and approves temporary traffic control plans associated with the permit application. Also, DOT is occasionally a permittee on a pole that is being relocated (i.e., traffic signal interconnect and/or fiber optic cable).

The County's Department of General Services (DGS) is involved in ensuring the County is meeting its requirements under the Americans with Disabilities Act legislation. Within public rights-of-way, this can include sidewalks, curb cuts, rumble strips, and other improvements.

Newly developed areas are generally already built out in compliance with ADA standards. However, older areas may need substantial work to be brought up to these standards. For example, the right-of-way available for pedestrian egress can be narrow and crowded with street signs and utility poles.



Photos from Montgomery Sideways blog (<http://montgomersideways.blogspot.com>)

The three photos above show examples of sidewalks (all located near downtown Silver Spring) with utility poles installed right into sidewalks (along with other obstructions), constricting pedestrian access. County staff will be available at the Committee discussion to talk about how the County prioritizes pedestrian access issues in general and how it coordinates with pole owners with regard to utility pole relocations as part of these efforts to improve pedestrian accessibility.

## **Pole Removal Agreement**

In March, Pepco, Verizon, and Comcast signed “An Agreement in Principle for the Removal of Poles” (see ©1-3<sup>1</sup>). This agreement includes a number of components, including:

- The parties agree that all of the permittees’ equipment will be removed from poles within 60 days (if there are two or fewer permittees on an existing pole) and 90 days (if there are more than two permittees on an existing pole). The timeline is triggered upon notice by the pole owner of the installation of a new pole (or presumably the availability of an existing pole), the pole owner’s completed transfer of its facilities to the new pole, and notice of the order of equipment to be moved (i.e., which permittee is to move their equipment first).
- Pepco agrees to move most of Comcast’s equipment (for a mutually negotiated fee) and offer this option to other permittees (except for Verizon, which has union agreements which preclude this option).
- The parties agree to work towards a long-term work-flow management system that will “time stamp all activities to facilitate reporting and ensure accountability.”
- The parties agree to address “existing double poles” in existence as of February 18, with a goal of removing all existing double polls by December 2014.

### **Discussion**

Officials from Pepco, Comcast, and Verizon will be available at the joint Committee discussion to update Councilmembers on the agreement and the work implemented to date and planned in the coming months. County staff will also be available to provide their thoughts.

Council Staff has previously forwarded the following questions to the invited attendees for their review and discussion at the Joint Committee meeting:

1. What role does each utility and County department play with regard to the installation, repair, relocation, and removal of utility poles in Montgomery County?
2. Utility Pole Inventory
  - a. Pepco, Verizon, and Other Utility Poles
    - i. How many poles are there in Montgomery County?
    - ii. How many poles are “surplus” (i.e., not in use)?
3. Surplus Pole Removal
  - a. Status of the Pole Removal Agreement among Pepco, Comcast, and Verizon.
  - b. How many surplus poles have been removed since the MOU was finalized?
  - c. When do Pepco and Verizon expect to address the full backlog of surplus poles?

### **Attachment**

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<sup>1</sup> The attached agreement is a version signed by Pepco. Versions of the same agreement have also been signed by Verizon and Comcast.

## **AGREEMENT IN PRINCIPLE FOR THE REMOVAL OF POLES**

This Agreement in Principle ("AIP") is made and entered into on March 6, 2013 by and between Potomac Electric Power Company ("Pepco"), Verizon Maryland LLC ("Verizon"), and Comcast Cable Communications Management, LLC (collectively, the "Parties").

**WHEREAS**, Pepco is a public utility which provides retail electric distribution services and owns distribution poles in Montgomery County and Prince George's County, Maryland ("Pepco Service Territory");

**WHEREAS**, Verizon and Comcast (as well as others) attach wires and other facilities to Pepco-owned distribution poles in Montgomery County and Prince George's County;

**WHEREAS**, Verizon is also a pole owner in Montgomery County and Prince George's County;

**WHEREAS**, a "Permittee" means any party attaching wires and/or other facilities to a pole with the permission of the pole owner; and

**WHEREAS**, the Parties agree that improved coordination would result in the prompt removal of double poles in the Pepco Service Territory, when new poles are installed.

**NOW THEREFORE**, in consideration of the above Recitals, and for other good and valuable consideration, the Parties, hereby agree, in principle, as follows:

### ***Prospective Timeframe for Pole Removal Going Forward***

Beginning on March 11, 2013, the Parties agree to remove or transfer within 60 to 90 days their respective equipment from an existing pole to a new pole that is erected on or after February 18, 2013. The obligation to transfer equipment from an existing pole will be triggered by the pole owner providing notice to all Permittees on the existing pole of: 1) the installation of a new pole; 2) the pole owner's completed transfer of its facilities to the new pole; and 3) the order in which Permittees should transfer their facilities ("Transfer Notice"). The pole owner shall provide electronic notification to the affected parties via a spreadsheet, emails or other tracking method as determined by the Parties.

Specifically, where there are two or fewer Permittees on the existing pole, all Permittees must transfer their facilities and the pole must be removed within 60 days of the Transfer Notice. Where there are more than two Permittees on an existing pole, all Permittees must transfer their facilities and the pole must be removed within 90 days of the Transfer Notice. Regardless of the number of Permittees, each Permittee agrees that it must transfer its facilities within 30 days of receiving notice that it is its turn to transfer its facilities; each Permittee understands that it may have less than the 30 days to transfer facilities depending on the number of Permittees. Once the last Party removes any facilities from the existing pole within the allotted time as indicated herein, the pole owner will then remove and dispose of the existing pole as well as perform any site restoration work.

***Intercompany Removal Agreements***

To facilitate prompt removals, Pepco and Comcast have agreed, in principle, that Pepco will relocate, if the transfer can be accomplished while transferring electric facilities, the majority of Comcast's facilities to new poles, for a fee that shall be mutually negotiated and agreed upon by the relevant parties and evidenced in a separate instrument or agreement. In addition, Pepco will offer this service to its other Permittees with the exception of Verizon; Verizon is not able to accept this service due to its Union agreements. A Permittee who does not agree to allow Pepco to transfer its facilities for a fee, must still comply with the timeframe established for equipment transfers.

***Communications (Short-term Solution)***

In the short-term, the Parties agree to communicate about the removal of existing poles via email. Each Party will provide a dedicated email address to be used for these communications. Each Party's email address will be monitored internally by multiple representatives of that Party.

Additionally, the Parties agree to convene a quarterly meeting to discuss the pole removal process and any pending pole removals. These meetings shall continue until the long-term communications processes described below are established.

***Communications (Long-term Solution)***

The Parties agree to identify and establish an electronic workflow management system that will notify and remind each Permittee when it is time to transfer its facilities to a new pole. The system would timestamp all activities to facilitate reporting and ensure accountability. A workflow management system is currently in use in the District of Columbia, and the system has greatly improved utility coordination on pole removals.

Additionally, the Parties agree to convene an annual meeting to discuss the pole removal process and any pending pole removals.

***Removing "Existing Double Poles"***

The Parties shall address the "Existing Double Poles" in the Pepco Service Territory, as determined by the Parties and defined as the double poles existing prior to February 18, 2013, while meeting the prospective removal timeframes described above for the new work going forward. Further, the Parties agree to remove (and exchange all information required to remove) all Existing Double Poles by December 31, 2014.

***Existing Pole Attachment Agreements***

Pepco and Verizon (formerly, Chesapeake and Potomac Telephone Company of Maryland) are currently parties to a certain Joint Use Agreement dated June 20, 1988 governing the attachment of facilities to each other's poles in Maryland (the "Verizon Pole Attachment Agreement"). Pepco and Comcast are currently parties to a certain Overhead Attachment Agreement for Other than C&P dated February 9, 1982 governing the attachment of facilities to Pepco's poles in Prince George's County, Maryland, and to a certain Overhead Attachment Agreement dated December 30, 1987 governing the attachment of facilities to Pepco's poles in Montgomery County, Maryland (collectively, the "Comcast Pole Attachment Agreements").

Pepco, Verizon and Comcast hereby acknowledge and agree that as of the Effective Date of this AIP and in the event of any conflict between this AIP and the Verizon Pole Attachment Agreement or the Comcast Pole Attachment Agreements, the terms of this AIP will control. Therefore, except as amended herein, Pepco, Verizon and Comcast agree that the Verizon Pole Attachment Agreement and the Comcast Pole Attachment Agreements shall remain in full force and effect.

***Execution in Counterparts***

This AIP may be executed by the Parties hereto in any number of counterparts (and by each of the Parties hereto on separate counterparts), each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement in Principle as of the date written below.

**POTOMAC ELECTRIC POWER COMPANY**

By: George P. Nelson

Title: V. P. - Operations & Engineering

Date: 3/6/13

**VERIZON MARYLAND LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_