



March 13, 2001

BY ELECTRONIC MAIL (CORRECTED COPY)

Mr. Bob Ballard
Deputy Secretary, Land and Recreation
Department of Environmental Protection (“DEP”)
State of Florida
3900 Commonwealth Blvd. — Mail Stop 44
Tallahassee, FL 32399-3000

Re: Establishing Fiber Optic Corridors to Better Protect Florida’s Environmental Resources

Dear Secretary Ballard,

Below find the comments I have shared with Steve Medina, General Counsel to Florida Public Employees for Environmental Responsibility (“FL PEER”), regarding tomorrow’s presentation to the Governor and Cabinet. Steve will represent PEER’s Florida membership at the meeting. And as our rulemaking opportunities sort themselves out, PEER is also available to assist the Bush Administration.

Where—the Geography of Conservation.

It is PEER’s position that the siting of fiber optic cable across Florida’s sovereign submerged lands is primarily an environmental decision.

In terms of size, the State of Florida is one of the largest telecom markets in the country. Given the State’s unique business and trade advantages—as well as its multicultural and international strengths—it ranks next to New York and California within the ranks of those markets that telecom companies want to penetrate and secure. As such, Florida—like New York and California—is optimally situated to choose the terms that it wants to set for broadband buildout in the State.

With the use of switching systems (public and private) and repeater technologies, fiber optic companies may land where it is environmentally efficient for the State of Florida. Unlike highway or railway

systems, fiber optic systems move at the speed of light. There is no overall economic advantage in designing a system which lands as close to existing markets (such as South Florida), as possible.

In fact, by locating cable landing sites where it is environmentally efficient, Florida may buildout the communications infrastructure to parts of the State under served by a network built to existing markets, alone. The most efficient allocation of public resources (such as easements) on behalf of industry focuses that allocation where existing infrastructure is already sited. It would be better, therefore, to land cables adjacent to major highway intersections (further fiber optic easement capabilities) such as the I-4/I-95 confluence near Port Canaveral. Also, an environmentally efficient solution to cable landing sites would allow for an unhampered communications infrastructure buildout which does not adversely impact those industries which depend on healthy environmental resources, such as tourism and fishing.

Industry has raised a fear of “bottlenecking”, a monopoly characteristic marked by one or two industry players controlling infrastructure blocking ingress or egress from a market. The most pronounced examples of bottlenecking occur in airline and railway networks. This is not a telecommunications concern. If Florida were contemplating one or two corridors, PEER would be concerned about the potential of bottlenecking the market in fiber. However, six (6) corridors provides more than enough competition, especially for a commodity which moves at the speed of light. Traffic rates which increase in price through one corridor portal marked by rent-seeking can be rerouted through another portal with little or no loss of service time.

For these reasons, the choice of where to place the five (5) fiber optic cable corridors should be made on one (1) criteria alone: where will landing the five (5) fiber optic cables have the least impact on Florida’s environmental resources, most notably the nearshore and deep reef systems unique to Florida?

How Wide—the Geography of Price.

Once individual sites are selected, the State of Florida needs to construct its administrative rules to provide for disparate pricing between those private easement options which support the Governor’s environmental policies and those which do not.

The cost of the private easement across the sovereign submerged lands of Florida should be sufficient to fund monitoring of the cable’s impact twice (2) a year. An adequate pricing mechanism would also dedicate easement funds toward a minimum of three (3) restoration dives per year.

PEER does not object to an “Opt Out Option” which allows for the laying of cable outside the five (5) designated cables and the one (1) “Grandfather” cable (in South Florida). There may be instances where the market need is so great that industry needs to lay cable at a specific site not within the corridor. But the cost of the private easement outside the corridor should be sufficiently high so as to provide the funding necessary to replace, in its entirety, the effected environmental resource. A multiple of ten (10) is not an unreasonable differential between the corridor easement cost and the non-corridor

easement cost. If the multiple should dip below ten (10), then a finding of public interest should be required.

As for the width of a the corridor, that measurement should be determined on a case-by-case basis. As damage to a nearshore or deep reef structure may take centuries to properly repair, the (1) ‘Grandfather’ cable in South Florida should be narrowly defined and should employ “stacking” or co-location technologies to run cables on top of existing cables, if necessary. The cost of the corridor easement should also reflect its width; the wider the corridor, the greater the need to generate funds to restore lateral damage to the reef structure.

Cost Per Conduit—Valuing the Environmental Costs

Industry maintains that the cost of environmentally-sensitive private easement pricing will make Florida telecoms too expensive, pricing the State out of the global market. This is trash talk. Florida is the primary portal to the United States from eastern South America, the most lucrative of markets in Latin America. The cost of landing cables in an environmentally-sensitive manner will be spread across a business subscriber base from Buenos Aires to Chicago. All these telecom customers are available to bear the cost of an environmentally efficient solution. By conducting its public finances in this manner, the State of Florida avoids the most irresponsible route: permitting the environmental damage, and then having the Florida taxpayers foot the bill for restoration.

The cost of the private easement to cross the sovereign submerged lands of the State of Florida should be computed from the following factors to arrive at a rental fee assessed in five (5) year increments:

The cost, per foot, to restore nearshore and/or deep reef structures, inclusive of all labor and supplies.

The cost, per foot, of monitoring the effect of the cable on the nearshore or deep reef structure, to include provisions for a minimum of two (2) dives per year.

The cost, per foot, of studying the monitoring results and incorporating that data into subsequent reef restoration efforts.

When reviewing the relative difference between the cost to the environmental resource across differing marine environments, PEER encourages a pricing mechanism that takes into account the variety of floor bottoms along the sovereign submerged lands. The two-step “corridor”/ “non-corridor” price differential could be augmented with a region variation that delineates floor bottoms by the resource occupying the sea floor:

Category I: Bottom contour/topography is a definitive characteristic of the environmental resource, thereby qualifying the site for the highest easement valuation. Valuation: 100% of the worst case mitigation cost for a nearshore coral reef mishap. Nearshore and deep reef resources would be best protected by being placed in this category.

Category II: Bottom contour/topography is an essential characteristic of the environmental resource, thereby qualifying the site for the next highest easement valuation. Valuation: 50% of the worst case mitigation cost for a environmental mishap. Important environmental resources—such as kelp beds and significant fish habitats—would be best protected by being placed in this category. This category allocates public decisioning making between the needs of industry and the needs of the environment.

Category III: Bottom contour/topography is an important characteristic of the environmental resource, thereby qualifying the site for the least highest easement valuation. Valuation: 25% of the worst case mitigation cost for a environmental mishap. Certain sea floor conditions of Northeast Florida may fall within this category.

The Florida Paradigm.

The State of Florida is proposing, and PEER supports, a system of five (5) cable corridors through the State. One (1) additional “Grandfather” cable corridor will be created from the path of an existing cable landing in South Florida.

East Coast. Two East Coast cable corridors are not controversial.

Cables may be landed at [1] Jacksonville, Nassau & Clay Counties and [2] Daytona, Volusia County using the existing environmental mitigation plans and strategies employed by the Florida Department of the Environment (FLDEP).

PEER concedes the need for [3] one (1) “Grandfathered” corridor in the Miami-Dade County area, provided that the monitoring activities paid for by the private easement fees lead to aggressive oversight of the impact on the reef and subsequent restoration.

Deputy Secretary Ballard has expressed an interest for a fourth [4] East Coast cable corridor in the Jupiter, Palm Beach County area. PEER can support a fourth corridor, but not south of the Cape Canaveral latitudinal protecting the Oculina Bank. Port Canaveral, Brevard County has sufficient infrastructure to land a fiber optic cable. Sufficient backbone along I-95 and other associated

north/south transportation routes exists for traffic to be switched and repeated into South Florida from Port Canaveral.

West Coast. Deputy Secretary Ballard's proposed fifth and sixth corridors represent sound business policy on the part of the Governor's administration.

If Florida is to grow in a manner which benefits not only the local elite, but also taxpayers of all levels, both [5] Tampa, Hillsborough & Pinellas Counties and some site in the [6] Panhandle need to be considered for cable corridors. Industry has pointed out that West Florida and the Capitol regions are relative backwaters unworthy of corridor cables. PEER disagrees. The Tampa and Panhandle corridors are excellently situated for linkages to both Mexico and the State of Texas, two economies burgeoning due to the North American Trade Agreement (NAFTA). By choosing these sites now, the necessary policy planning will have been completed to tap this future market. Likewise, the Tampa corridor is ideally situated for a "reverse" corridor. Traffic landing at the Dayton and Cape Canaveral landings could be routed across land lines using highway easements along I-4 and FL 528, on to Tampa and out the "reverse" corridor over a sea line to the Panhandle, and the western American and Latin American markets. This will have the benefit of bringing the latest in technological advances to Central Florida, as well. As you can see, the PEER proposal benefits all Floridians and protects sensitive reef structures.

PEER thanks the Deputy Secretary for his outreach on this matter, and is more than willing to assist the Governor in whatever capacity he deems necessary.

Cordially,

Dan Meyer

Dan Meyer
General Counsel, PEER

cc: Steve Medina, General Counsel
Florida PEER