

Exhibit #2.

Pole Attachment White Paper



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POLE ATTACHMENT REGULATION

Introduction

- In order to promote the continued deployment of wired and wireless broadband services across the nation, adopting low and uniform pole attachment rates and clarifying the rules will provide much-needed regulatory certainty that will both encourage increased broadband competition and permit broadband providers to extend their networks to unserved communities -- while still fairly and reasonably compensating pole owners.
- Vermont is one of twenty states to preempt the FCC's jurisdiction over pole attachment rates, terms and conditions. If P.S.B. jurisdiction is given back to the FCC, the state of Vermont will avoid the significant cost of regulating poles and we will adopt the national standard.

Overview of Federal Pole Attachment Law

- In section 224 of the Communications Act, Congress directed the FCC to “regulate the rates, terms, and conditions of pole attachments to provide that such rates, terms, and conditions are just and reasonable” for investor owned utilities and ILECs.
 - In doing so, Congress recognized the unique economic characteristics that shape relationships between pole owners and attachers finding “there is often no practical alternative [for network deployment] except to utilize available space on existing poles.”
 - Congress recognized further that there is a “local monopoly in ownership or control of poles,” observing that, as found by an FCC staff report, “public utilities by virtue of their size and exclusive control over access to pole lines, are unquestionably in a position to extract monopoly rents . . . in the form of unreasonably high pole attachment rates.”
 - Congress acted because it believed that states were not doing enough to address pole owner abuses but it limited the FCC's authority in states that certified to regulate pole attachments themselves (so-called “certified states”).
 - Congress also excluded from federal pole regulation those attachments to poles owned by municipalities and cooperatives because, at the time, “Munis” and “Coops” were not identified as imposing unreasonable rates terms and conditions on attachers. However, that is no longer the case, and states have always been free to adopt regulations governing Muni or Coop rates, when doing so would be beneficial.

- The FCC has been regulating pole attachments for cable operators since 1978 and for competitive local exchange carriers (CLECs) since 1996. In 1984, the U.S. Supreme Court upheld the FCC’s authority to regulate pole attachments.
 - The FCC has adopted a formulaic approach to setting maximum permitted attachment rates that ensures that utilities receive “not less than the additional costs of providing pole attachments,” nor more than fully allocated costs of such attachments (based on the percentage of “useable space” occupied), and that relies upon publicly available data, is easy to administer, and as such, minimizes staff, paperwork and ratemaking proceedings.
 - The rates produced using this FCC approach allow pole owners to more than recover their costs and is fully compensatory. The United States Supreme Court has upheld the cable rate formula and the majority of states that regulate poles use this FCC approach.
- In 1996, Congress directed the FCC to “encourage the deployment . . . of advanced telecommunications capability to all Americans” by removing barriers to infrastructure investment.
- The most recent pole attachment order from the FCC, in effect since April 2011, was adopted after extensive deliberation and input from all stakeholders (“2011 Pole Order”). In February 2013, the 2011 Pole Order was unanimously upheld on judicial appeal by the D.C. Circuit Court of Appeals.
- The FCC’s bipartisan goal in the 2011 Pole Order was to establish predictable and reasonable pole attachment rates for all communications providers so as to encourage broadband deployment. A few items to highlight:
 - Rates – The Order reinterpreted Section 224 to lower rents paid by telecommunications attachers to the level paid by cable attachers in order to “significantly reduce the marketplace distortions and barriers to the availability of new broadband facilities and services that arose from disparate rates.”
 - Attachments - If a pole owner rejects a request for attachment of any piece of equipment including, for example, wireless devices – it must explain the reasons for such rejection—and how such reasons relate to capacity, safety, reliability, or engineering concerns.
 - ILEC Attachment Rights - The FCC now allows incumbent LECs to file pole attachment complaints if they believe a particular rate, term or condition is unjust or unreasonable, and provide guidance regarding the FCC’s approach to evaluating those complaints and what the appropriate rate may be (whether the new telecommunications rate or another rate).

Overview of State Pole Attachment Laws

- 20 states (Alaska, Arkansas, California, Connecticut, Delaware, Idaho, Illinois, Kentucky, Louisiana, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Utah, Vermont and Washington) and the District of Columbia are certified to regulate rates of investor owned utilities.

- 14 states exercise some form of jurisdiction over electric cooperatives
 - AK AR IN KY LA MI MT NH NC OR UT VT VA WA
- 10 states provide specific guidance regarding how rates for electric cooperatives are set
 - AK IN KY MI NH NC OR UT VT WA

Conclusion

- Policy makers should create a current pole attachment regulatory framework that encourages the continued investment in expanding our communication infrastructure in a way that continues to bring advancements in technology and developments in the market to more consumers, particularly in more rural areas.
- We need a framework that is pro-competitive and pro-consumer. Abusive practices are not conducive to the promotion of the continued deployment of wired and wireless broadband services.
- We must encourage the adoption of low and uniform pole attachment rates, clear rules, and methods for dispute to provide regulatory certainty that will encourage continued private investment in our nation's network infrastructure.

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