



**Testimony to the House Committee on Energy and Technology
DR 19-1206**

**Comments of Comcast
February 26, 2019**

Thank you for the opportunity to offer the following comments on the proposed bill DR 19-1206.

The legislation directs the Public Utilities Commission (PUC) to consider standards and procedures on pole attachments. Section 19 would require the PUC to file a proposed rule with the Secretary of State and LCAR by September 1, 2019 that considers several factors including (1) one-touch make ready (OTMR) policies for pole attachments, (2) measures designed to minimize delays and costs and promote fair and reasonable rates and rapid dispute resolution, (3) standards that will provide clarity for when make ready completion period starts and ends. Under section 19, broadband service providers would be considered “attaching entities” with the same rights as other attaching entities. Also, it would allow attaching entities to hire a qualified contractor to complete any make ready not completed in a timely manner, and bill back such costs to the pole owner(s).

As drafted, **Section 19 is unnecessary.** *First*, PUC Rule 3.702 already treats Broadband Service Providers as Attaching Entities, and under Rule 3.707 pole owners must provide all Attaching Entities non-discriminatory access to poles. *Second*, responding to a petition by the Department of Public Service, the PUC already has opened a proceeding to amend Rule 3.708 dealing with pole attachments and the make ready process (the process by which a pole is made ready for a new attachment on a pole)¹. This proceeding will cover all of the issues mentioned in Section 19, including the make ready timeline, one-touch make ready (OMTR), and the use of qualified contractors. Initial comments in the proceeding are due March 8th. It is also premature for Vermont to adopt/consider OMTR at this time. The Federal Communications Commission rules on OTMR have not yet been implemented and are currently subject to appeals and motions for reconsideration. It would be most useful to consider OTMR after the rules have been in place for a reasonable period of time to account for any substantial changes that may occur at the FCC.

Comcast also would like to take this opportunity to emphasize that timely access to poles is only one part of the equation. As the proposed legislation notes, the biggest impediment to network investment, including broadband expansion to unserved areas, is the exorbitant cost. Simply put, high pole rents charged by pole owners deter network

¹ Petition of Vermont Department of Public Service for rulemaking to amend Public Utility Commission Rule 3.708, *Order Opening Rulemaking Proceeding*, Case No. 19-0252-RULE (February 7, 2019).

investment. Vermont's goal to promote broadband investment and adoption is dependent on establishing a uniform, cost-based pole attachment rate formula applicable to all attachments regardless of the service offered that is compensatory to pole owners and administratively efficient. A rulemaking on pole rates to achieve this result has been pending at the PUC for two and a half years. As Comcast and numerous other parties have explained in that proceeding, the Federal Communications Commission's ("FCC") "1-foot" cable television attachment formula satisfies all of these criteria and should be promptly adopted by the PUC thereby aligning Vermont with neighboring states and the vast majority of jurisdictions across the country. Accordingly, any legislation on utility poles should direct the PUC to complete the long-pending rulemaking to rationalize Vermont's pole attachment rate formula.² We would be pleased to provide additional information on the pending pole rate rulemaking if so desired.

Submitted by:
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² Petition of the CLEC Association of Northern New England to Amend Board Rule 3.706(D)(1) Regarding the Rental Calculation for Pole Attachments, *Order Opening Rulemaking and Notice of Workshop*, (July 15, 2016).