

## What They Are Saying: Responses to Sen. Thune Letter

Connect the Future and other broadband supporters have submitted responses to Senator John Thune's (R-SD) request for comments on the efficient and effective use of federal broadband funding. **The bottom line is that effective rules and regulations on issues like pole access are needed to ensure that unserved Americans see swift, meaningful results from federal broadband investments.**

### [Connect the Future](#)

*"If internet service providers (ISPs) are unable to obtain attachments to poles in a timely and cost-efficient manner, billions of dollars in federal broadband deployment funding are effectively stranded. Fortunately, Congress, along with the Federal Communications Commission (FCC), can take concrete steps to avoid such a disappointing outcome and to ensure federal broadband funds deliver high-speed internet availability to all who need it as quickly as possible. The National Telecommunications and Information Administration (NTIA) can also assist by providing guidance to states on the steps they should take to ensure timely and cost-effective access to poles under its Broadband Equity, Access, and Deployment (BEAD) program."*

### [Americans for Tax Reform](#)

*"When they are not buried, the fiber optic cables that deliver the majority of broadband internet service in America are attached to existing telephone poles and follow telephone lines to homes. There are approximately 185 million utility poles across the American landscape, and there is an unfortunate incentive for some pole owners to maximize the costs of pole attachments — be it by blatantly charging excessive, anticompetitive attachment rates or by forcing attachers to shoulder all future replacement and maintenance costs. The FCC already has the authority to adjudicate disputes between owners and attachers and has recently promulgated regulations intended to expedite deployment. These regulations, however, are incomplete because they do not capture all pole owners."*

### [Citizens Against Government Waste](#)

*"CAGW believes that updating pole attachment regulations, particularly for government-owned or cooperative-owned utility poles may help to prevent delays in the permitting process for new pole attachments...CAGW encouraged the FCC to work with stakeholders to ensure that pole attachments are not unduly delayed due to bureaucratic red tape."*

### [Fiber Broadband Association](#)

*"The Fiber Broadband Association believes these [broadband] programs, which address both broadband availability and adoption concerns, are vital to closing the digital divide. At the same time, they should operate efficiently, neither wasting public funds nor deterring private investment."*

### [Free State Foundation](#)

*"Absent timely and affordable access to utility poles, the purpose of federal broadband subsidies — that is, the expedited expansion of high-speed Internet service to primarily rural locations not currently served — simply cannot be achieved. That is why the Free State Foundation filed comments in June 2022 urging the FCC to (1) 'establish an objective formula for pole replacement cost-sharing in conjunction with a rebuttable presumption that utility pole owners directly benefit from replacement poles,' and (2) 'place pole attachment disputes in unserved areas on its Accelerated Docket.' It is essential that pole attachment disputes be resolved in a timely manner...In addition, Congress should eliminate the exemption from FCC-imposed limits on attachment rates for poles owned by*

*municipalities and electric cooperatives set forth in Section 224 of the Communications Act. In an August 2019 post to the FSF Blog, Mr. Cooper highlighted a paper written by Dr. Connolly finding that municipalities and electric cooperatives serving over one-fourth of the U.S. population ‘charge pole attachment rates that are more than double the rate charged by [investor-owned] utilities.’ Excessive pole rates raise deployment costs and waste limited government subsidies.”*

#### **INCOMPAS**

*“INCOMPAS members face disparate pole access, depending on who owns and regulates access to the pole. Moreover, disputes over pole attachments continue to represent a significant barrier to efficient and economical broadband deployment for competitive providers. Competitive providers’ deployments are routinely stymied by pole owners’ unreasonable pole attachment and replacement practices, including denials and excessive delays for pole access and the imposition of unsubstantiated costs for pole replacements. To speed deployment of next generation broadband networks in rural areas, the FCC must update its pole attachment regulations and create a more transparent, just, and reasonable process for the fair allocation of pole replacement costs between pole owners and new attachers. Congressional support for the FCC’s updates would be helpful.”*

#### **Mercatus Center**

*“Yes, refining pole attachment and pole replacement rules would accelerate broadband deployment. In the near term, Congress and the FCC need to ensure that pole disputes are resolved quickly and fairly. At the very least, new attachers should not bear the full cost of replacement for a pole near the end of its expected lifespan.”*

#### **MMTC**

*“MMTC has long raised concerns about the significant role access to poles play in bringing connectivity to low-income, rural minority communities such as Weirwood, Virginia and Chimayo, New Mexico. Thirty-one percent of Latinos still lack access to broadband, and most are ‘clustered in rural communities, where high-speed broadband internet is the hardest to find.’ And in the rural South, Black residents are twice as likely to lack internet access than their white neighbors. For these rural communities with dispersed populations and long distances separating households and small businesses, prompt and cost-efficient access to utility poles is an especially critical component to broadband deployment.”*

#### **National Taxpayers Union**

*“...the FCC and Congress should look to carefully consult with broadband providers and all stakeholders to better understand any existing challenges (e.g., fast-tracking disputes) to providing service to underserved or unserved populations in target regions for this area of law. Addressing such challenges, if a strong consensus can be reached to identify them, will require a targeted approach that considers the long-term implications from a variety of stakeholder viewpoints.”*

#### **NTCA**

*“For NTCA members, obtaining access to utility poles owned by other parties is a frustrating, expensive, and time-consuming process...Congress should encourage the FCC to expedite its pole access complaint process. The time and expense associated with pursuit of a pole access complaint can be significant and daunting. This serves as an effective barrier to any operator’s pursuit of a remedy under Section 224 – in fact, the burdens of this process create an incentive to ‘give in’ to unreasonable rates, terms, and conditions for access to utility-owned poles in order to avoid the delays in construction that will come to pass from pursuing a complaint. “*

**SHLB**

*“The SHLB Coalition believes that streamlined access to existing infrastructure like utility poles is a critical and urgent component to solving the digital divide, especially in rural areas where it may be more costly to deploy broadband services. Many families, schools, libraries, and healthcare facilities are located in areas where new broadband infrastructure is unavailable, difficult, or costly to obtain at the rate necessary to solve their urgent connectivity needs. Leveraging existing infrastructure can reduce the costs of deployment to rural, unserved areas and help to solve this digital disparity. Many of our members have expressed concern, however, over current pole attachment practices at a state and local level that often impede expeditious and cost-effective deployment. Accordingly, we agree that certain actions can and should be taken to update pole attachment regulations... Pole replacement standards matter greatly because they can directly affect whether broadband providers can find cost-effective ways to reach rural, unserved and underserved areas. When high pole replacement costs and uncertainty about equitable solutions exist, negotiating parties may delay the broadband buildout project or decide to forego it completely. Congress should encourage the FCC to issue an order in this proceeding as soon as possible so that timely and cost-efficient pole access is maximized.”*

**Taxpayer Protection Alliance**

*“Timely access to poles is critical in speedy broadband deployment, and delayed access is currently one of the greatest challenges to providers. Congress should examine how many municipalities and cooperatives are exempt from existing pole attachment laws in some jurisdictions and work to close this loophole. Pole owners also can often delay attachment requests for lengthy periods of time, forcing recipients of federal broadband funds to default on their grants and allowing the pole owners to bid on funding from another government program.”*

**U.S. Chamber of Commerce**

*“...the Chamber urges Congress to act on pole attachment practices for municipalities, cooperatives, or other types of non-investor-owned utilities. Providers often face significant challenges pertaining to attachment rates, terms (e.g. unreasonable access standards and unreasonable long lead times), and excessive fees for pole replacement and attachments costs. Specifically, we recommend that Congress close loopholes in existing federal pole attachment law which currently excludes poles owned by municipalities and cooperatives to further encourage accelerated and cost-efficient broadband deployment. In doing so, Congress would direct the FCC to establish a reasonable and standardized rental rate formula for utility poles owned by municipalities and cooperatives and ensure that the terms of access and cost allocation for those entities’ poles are fair and reasonable.”*

**WIA**

*“Congress should repeal the current exemption from FCC rules for poles owned by municipalities and co-ops in Section 224 of the Communications Act. Disparate treatment under the rules allows for these groups to charge significantly higher rates for attachment without providing additional benefits to the attacher. Congress should make the FCC’s rules on pole attachments applicable to all pole providers. The FCC should also ensure that all pole owners are responsible for timely responses to pole attachment requests to avoid anti-competitive practices that thwart Congress’ objective to connect all Americans.”*

**WISPA**

*“Section 224 of the Communications Act of 1934 should be amended to extend pole attachment rights to broadband providers irrespective of whether they are telecommunications providers or cable operators. Standalone broadband providers or those providing voice via interconnected VoIP are currently given no rights under Section 224 to access poles and conduits. This should be changed.”*