

February 13, 2024

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, D.C. 20554

**Re: WC Docket No. 17-84 – Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment**

Dear Commissioners,

Connect the Future (CTF) submits this letter in response to the Federal Communications Commission’s (FCC) Third Further Notice of Proposed Rulemaking, which seeks comments on proposals around large attachment orders, self-help, and the use of contractors to accelerate the pole attachment process. With thousands of broadband deployment projects across the country already underway and thousands more to begin this year, the FCC can continue to play a meaningful role to advance the Administration’s *Internet for All* goals by removing major hurdles that continue to threaten efficient broadband deployment.

CTF – a diverse, national coalition of supporters committed to bringing reliable broadband to the millions of still-unserved rural Americans – thanks the Commission, under Chairwoman Rosenworcel’s leadership, for recognizing the importance of addressing utility pole barriers that have impeded efforts to close our nation’s digital divide. FCC actions taken this past December were critical first steps toward addressing some of these barriers, but the reforms needed to meet this urgent challenge remain incomplete.<sup>1</sup> Achieving the reality of a fully connected America will require additional pole-related reforms that maximize infrastructure investments and speed broadband deployment to unserved, rural communities.

As such, CTF supports the FCC’s proposals around large pole attachment orders, self-help, and use of contractors. CTF also urges the Commission to swiftly enact clearly defined and equitable standards for how the costs of pole replacement investments should be shared by pole owners and attachers. Without prompt Commission action on these items, we risk falling short of our nation’s *Internet for All* goals.

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**Standardize Timelines on Large Attachment Orders**

CTF urges the Commission to adopt its proposal to establish defined timelines for the processing of pole attachment applications involving 3,000 or more poles. Under current FCC rules, there are no required timetables for pole owners to process and approve such “large order” pole applications from attachers. As a result, delays and disputes around large deployments can hold up projects in unserved areas for months or even years.

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<sup>1</sup> “Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking,” Federal Communications Commission (WC Docket No. 17-84, December 15, 2023). <https://docs.fcc.gov/public/attachments/FCC-23-109A1.pdf>

Without Commission action, there is a concern that the number of delays will increase exponentially in the coming months as billions in federal Broadband Equity, Access, and Deployment (BEAD) funds begin making their way into the states in addition to the already substantial broadband funding from the American Rescue Plan Act of 2021 (ARPA), the Rural Digital Opportunity Fund (RDOF), and private investments. The urgent need to standardize timelines of large pole attachment orders is clear:

- **Southern Ohio Communications Services (SOCS), September 2023:** In building out broadband in rural Ohio, SOCS complained that, “The power companies are taking – we’re seeing sometimes a year and a half – from the time we submit [pole attachment requests]. We have to have a permit for every pole, essentially is how it works, and we’ll submit that information to the power companies, and they tell us what it’s going to take. We’ve created these plans five years ago to build out...you’re talking still another two or three years before any fiber actually gets put on the line because we’re still waiting on [pole owners] AEP and South Central.”<sup>2</sup>
- **Charter Communications, October 2023:** “As of Sept. 11, AEP Ohio had approved applications covering 14,298 of the 86,115 poles Spectrum has applied for, a total of 16.6%, according to Spectrum. Of the applications still pending, 22,177 have been pending for more than seven months and 2,605 have been pending for more than a year.”<sup>3</sup>

Lengthy delays on large-scale broadband projects not only deny communities the critical internet services they need, but negatively impact the economy. A 2021 study by economist Patricia D. Kravtin and Western Carolina University professor Edward J. Lopez showed that every month of delayed expansion due to pole attachment barriers costs Americans between \$491 million and \$1.86 billion in lost economic gains.<sup>4</sup> That adds up to more than \$22 billion in lost economic gains each year.

CTF strongly supports Commission action on its proposal that requires utilities to adhere to defined timelines for make-ready requests exceeding 3,000 poles or five percent of the utility’s poles in a state. Delayed action significantly increases the risk of lengthy and costly delays associated with the pole access needed for broadband deployment.

### **Facilitate Self-Help & Use of Contractors**

CTF supports the proposal in the FNPRM to facilitate the use of self-help to accelerate the make-ready process. Significant “make-ready work,” which includes everything from permitting and renting space for equipment to inspecting and replacing old or out-of-code poles, must be completed before ISPs can attach broadband cables to utility poles.

It already takes up to an entire year for pole owners and contractors to complete “make ready” – and that’s in a best-case scenario assuming there are no delays 1) processing the attachment requests and applications or 2) finding the contractors and labor needed to perform the make-ready work.<sup>5</sup>

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<sup>2</sup> Caitlin Forsha, “Commissioners, SOCS representatives talk broadband expansion,” Highland County Press (September 21, 2023).

<sup>3</sup> Mark Williams, “Spectrum accuses AEP Ohio of hindering broadband development in Appalachia,” *Columbus Dispatch* (October 6, 2023).

<sup>4</sup> Edward J. Lopez & Patricia Kravtin, Advancing Pole Attachment Policies to Accelerate National Broadband Buildout, Connect the Future (November 2021), <https://connectthefuture.com/wp-content/uploads/2021/11/Advancing-Pole-Attachment-Policies-To-Accelerate-National-Broadband-Buildout-National-Report.pdf>

<sup>5</sup> Connect the Future: “Waiting for Broadband Access.” <https://connectthefuture.com/wp-content/uploads/2022/05/CTF-Pole-Access-and-Replacement-Timeline.pdf>

Pole owners can usually estimate upon receipt of an attachers' application "whether they have the resources to process the application [and to perform the work] according to the existing (and proposed) timelines."<sup>6</sup> If a pole owner lacks the resources needed for make-ready, common sense dictates that the pole owner should promptly communicate this to the attacher so that alternative solutions can be considered, including self-help remedies. Accordingly, CTF strongly supports Commission action that requires a utility to notify an attacher no more than 15 days after receiving a complete application if it cannot conduct a survey within the 45-day period the rules require.

In addition, current FCC rules exclude pole replacements from the list of accepted make-ready tasks that can be performed by an attacher-retained contractor when a pole owner cannot meet required timelines. In this scenario: "if deploying broadband facilities along a road segment requires attaching to 50 poles and one of them needs to be replaced, then the entire project grinds to a halt if the pole is not changed in time. A broadband attacher's ability to supervise and pay for a qualified contractor to do make-ready work on the other 49 poles, therefore, does nothing to speed broadband deployment when pole replacements are necessary components of a project."<sup>7</sup>

CTF strongly urges the Commission to require pole owners to authorize the use of qualified contractors by attachers exercising self-help remedies for pole replacements when the utility is unable to do so itself within required timelines. Failure to implement such a self-help remedy for pole replacement will have negative ripple effects throughout network deployments, including to unserved communities.

### **Ensure Equitable Division of Costs for Pole Replacements Between Owners & Attachers**

In the Pole Replacement Declaratory Ruling, the FCC clarified that "...all of the parties that benefit from the [pole] replacement must share proportionally in the cost, including utilities."<sup>8</sup> However, too many pole owners continue to avoid repairing and upgrading their infrastructure, instead waiting for a new pole attacher to come along to pay 100% of the cost. This despite the fact that pole owners derive significant benefits from new poles.

CTF has long documented the frequent and widespread nature of problems reported by ISPs across the country, and how unjust, excessive pole replacement costs have inhibited broadband deployment to unserved, rural communities:

- **Comcast, July 2023:** "Comcast detailed problems with pole owners failing to abide by Commission rules regarding access and timeframes. Comcast also discussed additional costs and delays imposed by pole owners. These barriers include, among others...**unequitable allocation of pole replacement costs**...and unreasonable make-ready estimates and pole charges. The resulting delays put at risk federally funded [rural] network projects that are subject to relatively short timeframes for construction."<sup>9</sup>
- **IdeaTek, June 2022:** "...IdeaTek, which operates in rural Kansas...has been allocated 100 percent of the replacement costs on applications that require make-ready and pole replacement, with no consideration

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<sup>6</sup> Comments of Charter Communications in the Matter of "Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment" (WC Docket No. 17-84), June 27, 2022. <https://www.fcc.gov/ecfs/document/108050153527998/2>

<sup>7</sup> Ibid

<sup>8</sup> Federal Communications Commission, Declaratory Ruling in the Matter of "Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment" (WC Docket No. 17-84), January 19, 2021. [https://docs.fcc.gov/public/attachments/DA-21-78A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/DA-21-78A1_Rcd.pdf)

<sup>9</sup> Ex Parte, Comcast Re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84, July 11, 2023. <https://www.fcc.gov/ecfs/document/1071163196478/1>

given to the enrichment and benefit this confers to the utility or the current value or condition of the pole.”<sup>10</sup>

It’s important to note that groups like USTelecom, which represent some pole owners, have purposefully mischaracterized and opposed efforts to address pole replacement costs. What they conveniently fail to mention are the decades of complaints their own members have lodged around unfair pole costs and abuses that echo those of CTF’s supporters. USTelecom members have repeatedly asked the FCC for help securing “just and reasonable” pole attachment costs when they themselves have faced trouble attaching their infrastructure to poles.<sup>11</sup>

Broadband providers are not seeking free access to poles. They are simply asking to pay their fair share, which is certainly not the entire cost of replacing poles that are already old or damaged, particularly when pole owners gain significant benefits from these new poles that last for 30-40 years.

Thus, CTF urges the Commission to quickly and clearly define equitable standards for how the costs of pole replacement investments should be shared by pole owners and attachers – something Canadian regulators completed in 2023 by adopting rules requiring pole owners to bear at least 50 percent of the cost of that investment.<sup>12</sup>

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Chairwoman Rosenworcel noted during the FCC’s December 2023 open meeting that “reaching 100 percent of us with high-speed [internet] service takes work and ***the details matter***” – details that must include meaningful additional action from the FCC on pole replacement costs and timelines.<sup>13</sup>

We hope the Commission can move quickly on the aforementioned pole access issues so that we can, as Commissioner Starks has urged, “eliminate as many outstanding questions as possible before BEAD funding flows.”<sup>14</sup> We must not lose sight of or squander this historic opportunity to connect every unserved American to reliable, high-speed internet.

Sincerely,



**Zachary Cikanek**  
Executive Director, Connect the Future

<sup>10</sup> Comments of INCOMPAS in the Matter of “Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” (WC Docket No. 17-84), June 27, 2022. <https://www.fcc.gov/ecfs/document/10629168805842/2>

<sup>11</sup> “Despite AT&T’s request for and efforts to negotiate ‘just and reasonable’ rates to which it is entitled by law, Duke Energy Progress failed to provide even a single rate proposal in response to AT&T’s repeated requests—despite phone calls, correspondence, and two face-to-face executive-level meetings discussing the issues that form the basis of this Complaint.” Pole Attachment Complaint, BellSouth Telecommunications, LLC d/b/a AT&T North Carolina and d/b/a AT&T South Carolina, September 1, 2020. <https://www.fcc.gov/ecfs/document/1090123818762/1>

<sup>12</sup> Canadian Radio-television and Telecommunications Commission, “Telecom Regulatory Policy CRTC 2023-31, Regulatory measures to make access to poles owned or controlled by Canadian carriers more efficient,” February 15, 2023. <https://crtc.gc.ca/eng/archive/2023/2023-31.htm>

<sup>13</sup> Statement of Chairwoman Jessica Rosenworcel re: FCC December 2023 Open Meeting, December 13, 2023. <https://docs.fcc.gov/public/attachments/FCC-23-109A1.pdf>

<sup>14</sup> Statement of Commissioner Geoffrey Starks re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84, Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Rulemaking, December 15, 2023.

<https://docs.fcc.gov/public/attachments/FCC-23-109A1.pdf>