

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Accelerating Wireline Broadband Deployment by) WC Docket No. 17-84
Removing Barriers to Infrastructure Investment)

ORDER GRANTING EXTENSION OF TIME

Adopted: July 19, 2022

Released: July 19, 2022

By the Chief, Wireline Competition Bureau:

1. By this Order, the Wireline Competition Bureau (WCB) grants in part an unopposed Motion filed by the American Public Power Association, Edison Electric Institute, National Rural Electric Cooperative Association, and Utilities Technology Council (collectively, Utility Trade Associations) seeking an extension of time to file reply comments in the above-captioned proceeding.¹ For the reasons stated below, WCB finds that an extension of time is warranted and extends the reply comment date to August 26, 2022.

2. On March 18, 2022, the Commission released a *Second Further Notice of Proposed Rulemaking* seeking comment on certain aspects of its pole attachment rules. Specifically, the Commission sought comment on (1) the universe of situations where a requesting attacher should not be required to pay for the full cost of a pole replacement and the proper allocation of costs among utilities and attachers in those situations; and (2) whether the Commission should require utilities to share information with potential attachers concerning the condition and replacement status of their poles and other measures that may help avoid or expedite the resolution of disputes between the parties.² Comments were due on June 27, 2022, and reply comments are due on July 27, 2022.³

3. On July 11, 2022, the Utility Trade Associations filed their Motion for an extension of the reply comment filing deadline by 60 days, until September 26, 2022.⁴ The Utility Trade Associations state that the reply comment deadline should be extended “due to the significant number of comments, the complexity of the issues raised and the sheer volume of the filings” in this proceeding.⁵ In support, the

¹ See American Public Power Association, Edison Electric Institute, National Rural Electric Cooperative Association, and Utilities Technology Council, Motion for Extension of Time, WC Docket No. 17-84 (filed July 11, 2022) (Motion), <https://files.fcc.gov/ecfs/download/f27daff5-5639-4c12-87a2-dc051ca05955?orig=true&pk=cb77b2ec-1a58-dbc6-139b-ad192cfd5d9b>.

² *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Further Notice of Proposed Rulemaking, FCC 22-20, at para. 3 (2022) (*Second Further Notice of Proposed Rulemaking*).

³ *Wireline Competition Bureau Announces Deadlines for Comments on Resolving Disputes Over Pole Replacement Costs*, WC Docket No. 17-84, Public Notice, DA 22-480 (May 2, 2022).

⁴ See Motion at 1.

⁵ Motion at 1. The Utility Trade Associations also note the intervening July 4th holiday, the overlap of comment deadlines in two other Commission proceedings, and the busy summer months for utilities due to high electric demand and preparations for the upcoming season of potentially adverse weather. *Id.* at 3 & n.7, 4-5.

Utility Trade Associations identify that there are “38 comments that were filed in response to the *FNPRM*, including several new studies, and some of the submissions include highly redacted material, which only adds to the difficulty of replying to the over 1,000 pages of comments that were submitted.”⁶ They further argue that “many of these comments raise new issues and propose new rules that were not considered in the *FNPRM* or elsewhere in the record.”⁷ The Utility Trade Associations also request that “the Commission toll the reply comment period until the Commission determines whether to grant confidential treatment for certain redacted information in initial comments submitted on the record.”⁸ Four parties filed in support of the Motion, three representing utilities and one a trade association representing telecommunications providers.⁹ In support of the Motion, Dominion Energy and Xcel Energy state that additional time is necessary for interested parties to address the broad range of new issues raised by commenters and to review and respond to the redacted filings in the record.¹⁰ In addition, a group of electric utilities agrees that the reply comment deadline should be stayed until the Commission addresses the confidential filings.¹¹ No opposition to the Motion has been filed.

4. We grant in part the Motion filed by the Utility Trade Associations and extend the deadline for filing reply comments in this proceeding by 30 days. As set forth in section 1.46 of the Commission’s rules,¹² the Commission does not routinely grant extensions of time. In this case, however, the unopposed extension will allow commenters sufficient time to file meaningful reply comments given the voluminous and detailed record generated by the comments in this proceeding and the complicated issues involved. To that end, the Commission already recognized the complicated nature of this proceeding when it set a 60-day comment deadline and 90-day reply comment deadline for the *Second Further Notice of Proposed Rulemaking*,¹³ and the comments filed in this proceeding have indeed demonstrated the complexity of the issues at hand.¹⁴ We further base this extension on identified uncertainty regarding the status of confidential filings in the record.¹⁵ While we will not toll the reply comment deadline, as the Utility Trade Associations request, we find that a limited extension acknowledges these concerns without unduly prolonging the comment cycle. While we find that none of these factors alone may warrant additional time for filing reply comments, we find that when considered cumulatively and in the context of this proceeding, additional time is appropriate. Since the Commission

⁶ Motion at 2.

⁷ *Id.* (“These issues and proposals involve highly complex matters, which require careful deliberation and coordination among the parties to respond.”).

⁸ Motion at 1; *see also id.* at 8-9.

⁹ *See* Letter from Morgan Reeds, Director Policy & Advocacy, USTelecom, to Marlene Dortch, Secretary, FCC, WC Docket No. 17-84, at 1 (filed July 13, 2022); Letter from Thomas Magee, Counsel for the Coalition of Concerned Utilities, to Marlene Dortch, Secretary, FCC, WC Docket No. 17-84, at 1-2 (filed July 13, 2022) (Coalition of Concerned Utilities Letter); Letter from David D. Rines et al., Counsel to Dominion Energy and Xcel Energy, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1-2 (filed July 13, 2022) (Dominion/Xcel Energy Letter); Southern Company et al., Response in Support of Motion for Extension of Time, WC Docket No. 17-84, at 2 (filed July 12, 2022) (Electric Utilities Response).

¹⁰ Dominion/Xcel Energy Letter at 1-2.

¹¹ Electric Utilities Response at 2.

¹² 47 CFR § 1.46.

¹³ *Second Further Notice of Proposed Rulemaking*, FCC 22-20 at para. 1 (setting comment and reply deadlines of 60 and 90 days, respectively, after publication of the *Second Further Notice of Proposed Rulemaking* in the Federal Register).

¹⁴ *See* Motion at 1-2.

¹⁵ *See, e.g.*, Motion at 8-9; Coalition of Concerned Utilities Letter at 1-2; Dominion/Xcel Energy Letter at 1-2; Electric Utilities Response at 2.

already established a longer than typical reply comment deadline of 30 days, we find that an additional 30 days should be sufficient and therefore grant the unopposed Motion in part and extend the reply comment deadline to August 26, 2022.

5. With respect to the confidential information entered into the record, Commission staff is currently reviewing the materials to determine whether confidentiality is warranted and the relevance of the purportedly confidential information. In the event that the Commission determines it is necessary to rely on any information that is determined to be confidential, procedures will be put in place for interested parties to review this information in order to make informed replies and additional time will be provided to do so.

6. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 0.204, 0.291, and 1.46 of the Commission's rules, 47 CFR §§ 0.204, 0.291, 1.46, the Motion filed by the Utility Trade Associations is **GRANTED IN PART AND DENIED IN PART** as described herein.

7. **IT IS FURTHER ORDERED** that the date to file reply comments in response to the *Second Further Notice of Proposed Rulemaking* **IS EXTENDED** to August 26, 2022.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau