

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: February 23, 2024

Released: February 23, 2024

Reply Comment Date: March 13, 2024

By the Chief, Wireline Competition Bureau:

1. By this Order, the Wireline Competition Bureau (WCB) grants in part a Motion filed by the Utilities Technology Council and the Edison Electric Institute (EEI, and collectively, Utility Trade Associations) seeking an extension of time to file reply comments in the above-captioned proceeding.<sup>1</sup> For the reasons stated below, WCB finds that an extension of time is warranted and extends the reply comment date to March 13, 2024.

2. On December 15, 2023, the Commission released a *Third Further Notice of Proposed Rulemaking* seeking comment on certain aspects of its pole attachment rules.<sup>2</sup> Specifically, the Commission sought comment on (1) the tentative conclusion that utilities should have an additional 90 days for make-ready work for requests exceeding the lesser of 3,000 poles or five percent of the utility’s poles in a state; (2) whether the Commission should prohibit utilities from limiting the number of poles included in a pole attachment application; (3) a proposal that the Commission establish a maximum time for a utility to review pole attachment applications of any size; (4) whether the Commission should create additional make-ready timeline tiers for attachment applications of different sizes; (5) a proposal that a utility notify an attacher within 15 days after receiving a complete application if it cannot conduct the survey within the required 45-day period (so that the attacher can elect self-help for the survey sooner); (6) whether the Commission should make self-help available for the make-ready estimate process; and (7) the impact of contractor availability when attachers seek to use their own contractors for self-help and whether to amend the Commission’s rules to make it easier for attachers to use their own contractors for self-help when there are no contractors available from a utility contractor list.<sup>3</sup> Comments were due on February 13, 2024, and reply comments are due on February 28, 2024.

3. On February 20, 2024, the Utility Trade Associations filed their Motion for an extension

<sup>1</sup> See Utilities Technology Council and Edison Electric Institute, Motion for Extension of Time, WC Docket No. 17-84 (filed Feb. 20, 2024) (Motion), <https://www.fcc.gov/ecfs/document/10221485408379/1>.

<sup>2</sup> *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 Proposed Rulemaking, FCC 23-109 (2023) (*Third Further Notice of Proposed Rulemaking* or *Fourth Report and Order*).

<sup>3</sup> *Id.* at paras. 52-59.

of the reply comment filing deadline by 20 days, until March 19, 2024.<sup>4</sup> The Utility Trade Associations state that comments in response to the *Third Further Notice of Proposed Rulemaking* were due on the same date as oppositions to a Petition filed by EEI to reconsider certain aspects of the pole attachment rules adopted in the *Fourth Report and Order*,<sup>5</sup> and that oppositions to EEI's Petition for Reconsideration are due on February 23, 2024, shortly before reply comments to the *Third Further Notice of Proposed Rulemaking*. The Utility Trade Associations note that, "there were many comments and oppositions as well as many pages written in response to both the *FNPRM* and the Petition. These comments and oppositions raise various complex issues and make new proposals that require the collection of additional information for reply comments."<sup>6</sup> According to the Utility Trade Associations, "[b]ecause many of the comments submitted on the *FNPRM* introduce issues and proposals that impact utility operations, additional time is also needed for industry associations to consult with their members, and for counsel to consult with their clients."<sup>7</sup> Finally, the Utility Trade Associations argue that "providing additional time between the comment and reply comment period will provide parties with additional time to potentially meet with other stakeholders to discuss potential options to consider that will truly promote broadband access as a practical matter, which then could potentially be included as part of the reply comments."<sup>8</sup>

4. The Utility Trade Associations state that granting the extension of time will serve the public interest by improving the record in this proceeding and better promoting broadband deployment.<sup>9</sup> The Utility Trade Associations also argue that granting the extension will not harm the interests of the parties to the proceeding, and in fact "utilities, attaching entities, and other stakeholders stand to benefit if the Commission provides additional time for the parties to take advantage of the opportunity to provide substantive reply comments that consider innovative approaches, account for new proposals, and provide additional data in response to the initial comments in a thoughtful way that will truly promote broadband access."<sup>10</sup> No opposition to the Motion has been filed to date.

5. We grant the Utility Trade Associations' Motion in part and extend the deadline for filing reply comments in this proceeding by 14 days. As set forth in section 1.46 of the Commission's rules, the Commission does not routinely grant extensions of time.<sup>11</sup> In this case, however, the unopposed extension will allow commenters additional time to file meaningful reply comments given the extensive record generated by the comments in this proceeding and the complicated issues involved. Furthermore,

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<sup>4</sup> See Motion at 1.

<sup>5</sup> *Id.* See Edison Electric Institute, Petition for Clarification and/or Reconsideration, WC Docket No. 17-84 (filed Jan. 16, 2024) (seeking reconsideration for the Commission to "(1) clearly define the narrow circumstances in which a utility pole owner is required to provide a copy of its easement to an attacher that seeks to access a pole within such easement; and (2) remove or clarify its ruling that a 'pole replacement is *not* 'necessitated solely' by an attachment request' if a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole." (emphasis in original)).

<sup>6</sup> Motion at 2. According to the Utility Trade Associations, there were "24 filings totaling 415 pages in response to the *FNPRM* and the Petition. Most of these were comments in response to the *FNPRM*, and there were twice as many pages overall in these comments compared to the filings in response to the Petition." *Id.* at 2, n.3.

<sup>7</sup> Motion at 2. The Utility Trade Associations state that the "intervening Federal holiday, on February 19, made it more difficult to schedule those important discussions." *Id.*

<sup>8</sup> Motion at 2.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.* (as the Utility Trade Associations note "[t]he pole attachment process will continue to proceed, deadlines for surveys and make ready will continue to apply as before, parties can continue to negotiate timelines for larger orders, and attachers can seek self-help if they decide to avail themselves of that option. The comments on the record do not demonstrate exigent circumstances or a widespread problem involving larger orders or self-help that would harm the interests of the parties by granting a limited extension of time to file reply comments.").

<sup>11</sup> 47 CFR § 1.46.

with replies to oppositions to the EEI Petition for Reconsideration being due on February 23, 2024, an extension will enable those parties filing such replies sufficient time to focus on the preparation of reply comments to the *Third Further Notice of Proposed Rulemaking*.<sup>12</sup> While we find that none of these factors standing alone would warrant additional time for filing reply comments, we find that when considered cumulatively and in the context of this proceeding, additional time is appropriate. However, we find a 14 day extension (rather than the 20 days requested by the Utility Trade Associations) is sufficient to allow for the preparation of meaningful reply comments while not unduly delaying this proceeding. Accordingly, we grant the Motion in part and extend the reply comment deadline to March 13, 2024.

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** as described herein.

7. **IT IS FURTHER ORDERED** that the date to file reply comments in response to the *Third Further Notice of Proposed Rulemaking* **IS EXTENDED** to March 13, 2024.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader  
Chief  
Wireline Competition Bureau

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<sup>12</sup> A 14-day extension also gives the parties 19 days between the replies to oppositions to the EEI Petition for Reconsideration and the deadline for reply comments to the *Third Further Notice of Proposed Rulemaking*.