

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

In the Matter of
Verizon Pennsylvania LLC and
Verizon North LLC,
Complainants,
v.
Metropolitan Edison Company,
Pennsylvania Electric Company, and
Penn Power Company, now known as
FirstEnergy Pennsylvania Electric Company,
Defendants.
Proceeding Number 26-44
Bureau ID Number EB-19-MD-008

ORDER

Adopted: March 11, 2026

Released: March 11, 2026

By the Chief, Enforcement Bureau:

1. On February 3, 2026, complainants Verizon Pennsylvania LLC and Verizon North LLC (Verizon) filed a motion to reopen this complaint proceeding regarding the terms and rates for Verizon’s attachments to utility poles owned by defendant FirstEnergy Pennsylvania Electric Company (FirstEnergy).¹ For the reasons explained below, Verizon’s motion lacks merit and is denied.

I. BACKGROUND

2. The proceeding at the Federal Communications Commission (Commission) that Verizon seeks to reopen involves a complaint that Verizon filed against FirstEnergy in 2019. The Commission transferred the complaint to the Pennsylvania Public Utilities Commission (PUC or Pa. PUC) and closed the Commission’s proceeding on March 23, 2020.² The Commission did so because, at that time,

¹ Verizon’s Motion to Reopen, Proceeding 19-354, Bureau ID Number EB-25-MD-002 (filed Feb. 3, 2026) (Motion). FirstEnergy filed a timely opposition. First Energy Pennsylvania Electric Company’s Opposition to Verizon’s Motion to Reopen, Proceeding 19-354, Bureau ID Number EB-25-MD-002 (filed Feb. 10, 2026) (Opposition).

² See Verizon Pa. v. Metropolitan Edison Co., Order, 35 FCC Rcd 2838, 2839, paras. 1-2 (Enf. Bur. 2020) (Transfer Order). The Commission subsequently terminated the proceeding in December 2025. See Termination of Certain Proceedings as Dormant, Order, 2025 WL 4083196 (CGB Dec. 3, 2025). For administrative purposes only, Proceeding Number 26-44 was opened to address Verizon’s Motion and First Energy’s Opposition. See Letter Ruling from Rosemary McEnery, Chief, Market Disputes Resolution Division, FCC Enforcement Bureau, to Curtis L. Groves and Christopher S. Huther, Counsel for Verizon, and Thomas B. Magee and Jessica W. Rhea, Counsel for First Energy, Proceeding Number 26-44, Bureau ID Number EB-19-MD-008 (dated Mar. 6, 2026).

Pennsylvania began regulating the rates, terms, and conditions for pole attachments in the state.³ Under sections 224(b) and (c) of the Communications Act (Act), the Commission has authority to regulate the rates, terms, and conditions for pole attachments, including authority to resolve complaints, unless “such matters are regulated by a State.”⁴

3. Under the Act, pole attachments are considered “regulated by a State” when the state takes two steps. First, the state must make a two-part certification to the Commission that (i) the state regulates the rates, terms, and conditions of pole attachments and (ii) in so regulating, “the State has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the utility services.”⁵ Second, the state must have “issued and made effective rules and regulations implementing the State’s regulatory authority over pole attachments.”⁶ When these requirements are met, the state, rather than the Commission, has general authority to regulate pole attachments in the state, including resolving complaints like the one filed by Verizon against FirstEnergy in 2019. The Act thus provides for “reverse” preemption by a state of the Commission’s authority over pole attachments, and Pennsylvania asserted its authority pursuant to section 224(c) by certifying to the Commission on March 18, 2020, that Pennsylvania met the requirements of section 224(c).⁷

4. There is, however, an additional proviso that applies to “any individual matter” in a state: under section 224(c)(3)(B), a state is not considered to regulate the rates, terms, and conditions of pole attachments with respect to “any individual matter” unless “the State takes final action on a complaint regarding such matter” either “(i) within 180 days after the Complaint is filed with the State, or (ii) within the applicable period prescribed for such final action in such rules and regulations of the State, if the prescribed period does not extend beyond 360 days after the filing of such complaint.”⁸ In Pennsylvania, state law provides that complaints must be resolved within 180 days after the complaint is filed with the state, or within 270 days in cases where good cause is shown.⁹ Under this proviso, even in states that have reverse preempted the authority of the Commission to regulate pole attachments, it is possible that authority to decide an individual matter can revert to the Commission.¹⁰

5. As to Verizon’s complaint against FirstEnergy, once the Pa. PUC assumed authority over the dispute and Verizon’s complaint, the PUC conducted “an exhaustive process” that resulted in a detailed record and a “comprehensive decision.”¹¹ The PUC timely issued a written order within the

³ See Letter from Renardo L. Hicks, Chief Counsel, Pa. PUC, to Marlene Dortch, Secretary, FCC, *States That Have Certified That They Regulate Pole Attachments*, WC Docket No 10-101 (filed Mar. 18, 2020) (Pa. Certification); see also *States That Have Certified That They Regulate Pole Attachments*, Public Notice, DA 20-302, 35 FCC Rcd 2784, 2785 (WCB Mar. 19, 2020).

⁴ 47 U.S.C. §§ 224(b), (c). Under the Act, the “term ‘State’ means any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.” *Id.* § 224(a)(3).

⁵ 47 U.S.C. § 224(c)(2)(A), (B).

⁶ 47 U.S.C. § 224(c)(3)(A); see *Transfer Order*, 35 FCC Rcd at 21839, para. 1.

⁷ See Pa. Certification. The Pa. Certification specifically identified the requirements of section 224(c)(2) and (3).

⁸ 47 U.S.C. § 224(c)(3)(B).

⁹ See Motion at 4 & n.14 (discussing Pennsylvania time frames).

¹⁰ See also 47 CFR § 1.1405(f) (“Notwithstanding any such certification, jurisdiction will revert to this Commission with respect to any individual matter, unless the state takes final action on a complaint regarding such matter: (1) Within 180 days after the complaint is filed with the state, or (2) Within the applicable periods prescribed for such final action in such rules and regulations of the state, if the prescribed period does not extend beyond 360 days after the filing of such complaint.”).

¹¹ Motion at 5, 8.

applicable deadlines on December 18, 2020.¹² Verizon filed a petition for reconsideration at the Pa. PUC, which denied the petition, “promptly resolv[ing]” it on April 15, 2021.¹³ The Pa. PUC’s decision was a final order under Pennsylvania law, and both parties subsequently sought appellate review by filing petitions for review with the Commonwealth Court of Pennsylvania.¹⁴ The Commonwealth Court affirmed the order of the Pa. PUC in a decision issued on September 21, 2023.¹⁵

6. Both FirstEnergy and Verizon sought further review before the Supreme Court of Pennsylvania, and that court issued its decision on January 8, 2026.¹⁶ The Supreme Court of Pennsylvania concluded that the Pa. PUC erred under state law “by improperly placing the burden of proof on FirstEnergy to establish that its rates were just and reasonable.”¹⁷ The court then “vacate[d] the Commonwealth Court’s order affirming the PUC and remand[ed] to the Court to remand to the PUC for further proceedings consistent with our Opinion.”¹⁸ The Commonwealth Court of Pennsylvania remanded the case to the Pa. PUC—but did not vacate the Pa. PUC’s final order of December 18, 2020.¹⁹ The Pa. PUC’s electronic docket system states that its case was reopened on February 3, 2026.²⁰ After Verizon’s motion and FirstEnergy’s opposition were filed with the Commission, a Pa. PUC administrative law judge (ALJ) issued an order setting a telephonic pre-hearing conference to “discuss issues related to the remand phase of this proceeding.”²¹

II. DISCUSSION

7. Verizon’s primary argument in support of its motion to reopen the proceeding is conclusory: it argues that “[b]ecause the Pennsylvania Supreme Court has vacated the order affirming the PUC’s decision and required additional proceedings, Pennsylvania has not taken ‘final action’ on Verizon’s complaint within the mandatory 270-day deadline. By operation of law, jurisdiction to resolve this ‘individual matter’ is now with this Commission.”²²

¹² *Verizon Pa. v. Metropolitan Edison Co.*, Opinion and Order, No. C-2020-3019347, 2020 WL 7682434 (Pa. PUC Dec. 18, 2020) (*Pa. PUC Order*). See also Motion at 4-5 & n.14 (explaining the applicable 270-day time frame under Pennsylvania law and agreeing that the Pa. PUC met those time frames).

¹³ See Motion at 6 n.21.

¹⁴ See, e.g., 42 Pa. C.S.A. § 763(a) (with exceptions not relevant here, the Commonwealth Court has jurisdiction of appeals from “final orders” of certain agencies including the Pa. PUC); Pa.R.A.P. 341(b) (a “final order . . . disposes of all claims and of all parties”).

¹⁵ *Verizon Pa. LLC v. Pa. Pub. Util. Comm’n*, 303 A.3d 219 (Pa. Commw. Ct. 2023).

¹⁶ *FirstEnergy Pa. Elec. Co. v. Pa. Pub. Util. Comm’n*, 349 A.3d 165, 189 (Pa. 2026).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ The docket entry in that court, dated January 30, 2026, states in relevant part that “in light of the Supreme Court’s January 8, 2026 opinion . . . , these matters are hereby REMANDED to the PUC for further proceedings consistent with the Supreme Court’s opinion.”

²⁰ *Verizon Pa. v. Metropolitan Edison Co.*, Daily Actions, No. C-2020-3019347 (Feb. 3, 2026).

²¹ *Verizon Pa. v. Metropolitan Edison Co.*, Prehearing Conference Order, No. C-2020-3019347 (Feb. 18, 2026) (Remand Conference Order). The Order directed each party to submit a memorandum that includes “(1) a list of the issues and sub-issues the party believes are relevant to this remand proceeding and intends to address, (2) a statement of the party’s position on each of the issues and sub-issues listed, (3) the names, business addresses, and telephone numbers of witnesses the party expects to call and the subject matter of each witness’ testimony, (4) a proposed litigation schedule.” *Id.* at 2.

²² Motion at 7. In support of its argument, Verizon cites 47 U.S.C. § 224(c)(3)(B), 47 CFR § 1.1405(f), and several Commission orders. *Id.* n.26. These orders, however, are largely restatements of the statutory text, and Verizon never explains how that text or these orders apply to the facts of this dispute.

8. Beyond these two sentences (and two similar sentences in the introduction to its motion), Verizon offers no other argument for its claim that the proceeding should be reopened, and no other analysis applying the relevant statutory language in section 224 to the facts.²³ Verizon's position appears to be that (i) Pennsylvania had up to 270 days to take final action on Verizon's complaint once it was transferred to the state; (ii) the Pa. PUC took that full period when it issued its order on December 18, 2020; (iii) then, during the approximately five years that it took the state to resolve Verizon's petition for reconsideration and the multiple petitions for review filed by Verizon and FirstEnergy with the Pennsylvania appellate courts, the statutory deadline was somehow inapplicable, tolled, or stayed; (iv) and now, in light of the Pennsylvania Supreme Court's remand to the Pa. PUC, the deadline applies and there is no remaining time for the state, including the Pa. PUC, to act on the complaint.²⁴

9. We reject Verizon's position, which is not self-evident from either Verizon's motion or the text of section 224(c)(3)(B). Rather, final action by a state agency is final action by "the State,"²⁵ and we find that the Pa. PUC, the state agency that acted on the complaint, made a substantial effort to comply—and did comply—with the text and deadlines of section 224(c)(3)(B). Employing an ALJ, the Pa. PUC "oversaw extensive discovery and accepted voluminous evidentiary submissions and legal briefings" on highly complex legal and factual issues.²⁶ Even though it compiled this detailed record (which Verizon contends should be used if the Commission were to reopen the matter), the Pa. PUC still issued its final and "comprehensive decision" on Verizon's complaint within the 270-day deadline set under state law.²⁷ Accordingly, we agree with FirstEnergy that, under section 224(c)(3)(B)'s terms, "with respect to [this] individual matter," i.e., Verizon's dispute with FirstEnergy, "the State" (specifically the

²³ See also Motion at 1 (arguing that "[u]nder 47 U.S.C. § 224(c)(3)(B) and 47 C.F.R. § 1.1405(f), if a state does not resolve a pole attachment complaint within the statutory deadline—here, 270 days—jurisdiction automatically reverts to this Commission. Because the Commonwealth of Pennsylvania has not taken final action within that time, this Commission now has the authority and the obligation to resolve this case."). Verizon's 11-page motion devotes more space to its claims regarding the record that the Commission should employ if it reopens the proceeding than it does to its argument that the proceeding must be reopened. See *id.* at 8-11. In light of our denial of Verizon's motion, we do not reach the issue of what record would be used.

²⁴ Under the Commission's rules, a movant in a formal complaint proceeding shall "stat[e] with particularity the grounds and authority therefor, including any supporting legal analysis." 47 CFR § 1.729(a). Verizon appears to halfheartedly put forth a second argument, when it states—in a footnote placed in the background section of its motion—that section 224(c)(3)(A) of the Act applies to oust Pennsylvania of authority to hear Verizon's complaint because the Pennsylvania Supreme Court "negated the effectiveness of the PUC's methodology for regulating rates." Motion at 6 n.23; *but see id.* (stating that the Commission need not reach this argument). Verizon has not properly presented an argument based on section 224(c)(3)(A) and thus we do not address it. See *Knology Inc. v. Georgia Power Co.*, 18 FCC Rcd 24615, 24617 n.16 (2003) (declining to address an issue raised cursorily, and for which there is inadequate record to address the merits); see also, e.g., 47 U.S.C. § 154(j); *FCC v. Schreiber*, 381 U.S. 279, 289 (1965); *NTCH, Inc. v. FCC*, 950 F.3d 871, 884-85 (D.C. Cir. 2020) (*per curiam*) (the Commission properly denied relief when a party failed to comply with a rule requiring it to "specify with particularity" its legal argument). In any event, Verizon's cursory statement fails to demonstrate that Pennsylvania currently lacks rules that have been "made effective." The Pa. PUC has "issued and made effective rules and regulations" for pole attachments. 47 U.S.C. § 224(c)(3)(A); see Opposition at 7. Although the Pennsylvania Supreme Court concluded that certain rules were inconsistent in some respects with state law, it did not vacate all (or any) of the rules, and thus it remains true that the Pa. PUC "has issued and made effective rules and regulations implementing the State's regulatory authority over pole attachments." 47 U.S.C. § 224(c)(3)(A). In fact, apart from those aspects of the rules found to be inconsistent with state law, the Pa. PUC's rules continue to apply to pole attachments in the state and to complaints filed with the Pa. PUC (including Verizon's complaint).

²⁵ 47 U.S.C. § 224(a)(3) (the "State" includes an "agency" of the state).

²⁶ Motion at 5.

²⁷ *Id.*

Pa. PUC) took “final action on a complaint regarding such matter” within the applicable deadlines by issuing its order dated December 18, 2020.²⁸

10. Despite Verizon’s statements,²⁹ Congress did not impose deadlines in section 224(c)(3)(B) on the overall resolution of “any individual matter,” but instead established deadlines for a specific type of act, namely “final action on a complaint.”³⁰ The Act does not define these terms, but the term “final action” has a “special meaning in the law, and we assume Congress knew the content of background law when legislating.”³¹ Specifically, courts have found it reasonable to “look to the definition of ‘final action’ under the Administrative Procedure Act (APA).”³² Under the APA, the term “final agency action,” which is nearly identical to the term “final action,” refers to action that marks the consummation of the agency’s decision-making process and either determines rights or obligations or triggers legal consequences.³³

11. In short, based on the language Congress chose to enact, the statutory deadlines in section 224(c)(3)(B) pertain to the timing of the Pa. PUC’s December 18, 2020 order. That order constitutes “final action on [Verizon’s] complaint” within the meaning of section 224(c)(3)(B) because it is a “comprehensive decision”³⁴ that determined the parties’ rights and obligations. Verizon has not established that the 180 and 360 day deadlines in section 224(c)(3)(B) also apply to the timing of proceedings that may occur *after* a state’s final action on a complaint, such as reconsideration petitions, appellate review, or further proceedings on remand at the agency after appellate review. If Congress also wanted to establish deadlines for final action on those types of proceedings, it could have done so by, for example, setting additional deadlines as to any or all of those specific types of acts, or as to a state’s final action “on any individual matter.” Rather, by setting a deadline only for final action “on a complaint,” Congress provided that reconsideration and appellate proceedings generally do not fall within the deadlines in section 224(c)(3)(B), because those proceedings are typically initiated by the filing of a “petition,” rather than a “complaint.”³⁵

²⁸ 47 U.S.C. § 224(c)(3)(B); *see* Opposition at 1-2.

²⁹ Motion at 1 (arguing “if a state does not resolve a pole attachment complaint within the statutory deadline ... jurisdiction automatically reverts to this Commission”).

³⁰ 47 U.S.C. § 224(c)(3)(B).

³¹ *Global Tower Assets v. Town of Rome*, 810 F.3d 77, 82-83 (1st Cir. 2016) (*Global Tower*) (interpreting the term “final action” in section 332(c)(7)(B)(v) of the Act); *see also* *TowerCo 2013 v. Berlin Township Bd. of Trustees*, 110 F.4th 870, 882 (6th Cir. 2024) (*TowerCo*); *Omnipoint Holdings v. City of Cranston*, 586 F.3d 38, 46-47 (1st Cir. 2009).

³² *TowerCo 2013*, 110 F.4th at 882; *see* 5 U.S.C. § 704.

³³ *See, e.g., Bennett v. Spear*, 520 U.S. 154, 177-78 (1997). In this regard, in explaining what is meant by the term “final action” in section 332(c)(7)(B)(v) of the Act, the conferees clarified that “final action” means a “final administrative action.” *See Global Tower*, 810 F.3d at 82 (quoting Telecommunications Act of 1996, H.R. Rep. No. 104-458, at 209 (1996)). As discussed above, the Pa. PUC’s December 18, 2020, order was also a “final order” under state law because it resolved all claims presented by the parties in the complaint case. *See* 42 Pa. C.S.A. § 763(a); Pa.R.A.P. 341(b).

³⁴ Motion at 5.

³⁵ *Compare, e.g.,* 47 U.S.C. §§ 208, 224(b)(1) (referring to “[c]omplaints” to the Commission); Fed R. Civ. P. 3 (an action is begun by “filing a complaint with the court”); 66 Pa. C.S.A. § 701 (“Complaints” to the PUC) *with* 47 U.S.C. § 405 (referring to a “petition” for reconsideration); 28 U.S.C. § 2344 (a final order of the Commission is made reviewable in a court of appeals when an aggrieved party files “a petition for review”); Pa.R.A.P. 1511 (review of agency action is obtained by filing a “petition for review”).

12. We disagree that the effect of the remand by the Pennsylvania Supreme Court for further proceedings by the Pa. PUC was to erase or invalidate, on a retroactive basis, the historical fact that the PUC took final action on Verizon's complaint within the applicable statutory deadline. As FirstEnergy points out, Verizon cites no precedent to support this view, either under section 224(c)(3) of the Act or any other statute imposing a deadline on a state or an agency.³⁶ Additionally, the Pennsylvania Supreme Court expressly ordered that the dispute should be "remand[ed] to the PUC for further proceedings."³⁷ The Pennsylvania Supreme Court's decision does not mention the deadlines in section 224(c)(3). However, the court's express choice of remedy to remand to the PUC for further proceedings is starkly at odds with Verizon's claim that the court's decision means that Pennsylvania is no longer deemed to regulate this pole attachment matter and that the Pa. PUC has been divested of authority to act on remand.³⁸

13. Finally, Verizon's motion is inconsistent with the purposes of the reverse preemption provisions of section 224(c).³⁹ This is not a case where a state has taken no action whatsoever on a pole attachment complaint, or has sat on its hands to create an unreasonable delay well in excess of the deadlines set forth in section 224(c)(3)(B). Rather, Pennsylvania has stated that it regulates the rates, terms, and conditions of pole attachments in the state, and has established rules for the speedy resolution of complaints. As to this dispute, the Pa. PUC took prompt and final action on Verizon's complaint, and Verizon has not even argued that the Pa. PUC is likely to unreasonably delay any remand proceedings. In fact, as noted above, the Pa. PUC has reopened its proceeding and taken initial steps to address the remand by issuing its Remand Conference Order.⁴⁰ Given Congress's command that "nothing" in "section [224] should be construed to apply to, or give the Commission jurisdiction" over pole attachments where they are regulated by a state,⁴¹ it would subvert, rather than promote, the purposes of

³⁶ Opposition at 3. Verizon's position that an appellate court's subsequent remand to an agency affects whether the agency took "final action on a complaint" could lead to anomalous results. Suppose, for example, that the outcomes in the appellate courts in this dispute were reversed, and that the Pennsylvania Commonwealth Court had found fault with the PUC's order and remanded to the PUC for further proceedings, whereas the Supreme Court of Pennsylvania disagreed, and upheld the PUC's order without any remand. Under Verizon's view, the Commission would be required to reopen the proceeding after the Commonwealth Court's decision, only to transfer it back again to the Pa. PUC after the ruling of the Pennsylvania Supreme Court. Nothing in the text of section 224(c)(3)(B) indicates that Congress intended such an odd result.

³⁷ *FirstEnergy Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 349 A.3d 165, 189 (Pa. 2026) (emphasis added).

³⁸ In this regard, the Pennsylvania courts only remanded for further proceedings, and did not vacate the Pa. PUC's order, which underscores that the courts did not seek to retroactively invalidate the historic fact that the Pa. PUC took timely final action on Verizon's complaint. Further, even when appellate courts vacate an agency order, they typically have discretion, based on "equitable considerations," to take various steps to "relieve the parties from the onerous results of the court's holding until the agency can redo its analysis." *Marin Audubon Soc. v. FAA*, 129 F.4th 869, 872 (D.C. Cir. 2025) (quotation omitted); see also 42 Pa. C.S.A. § 706 (an appellate court, in remanding the matter, may "require such further proceedings to be had as may be just under the circumstances"). Given the courts' ability to fashion just remedies, we think there is no basis to conclude that the Pennsylvania courts intended, *sub silentio*, their remands to the PUC to have the onerous result of ousting the state and the PUC of its authority over this dispute.

³⁹ See, e.g., S. Rep. No. 95-580, 95th Cong., 1st Sess., pp. 16-17 (1977) (the Senate Committee considers regulation of "pole attachments to be essentially local in nature," and the role of the Commission is "supplemental," designed to apply when "state or local regulation currently does not widely exist").

⁴⁰ Remand Conference Order at 1-3.

⁴¹ 47 U.S.C. § 224(c)(1).

section 224(c) to wrest control of the dispute at this stage, based on the facts presented here. We therefore decline in this case to construe the deadlines in section 224(c)(3)(B) to reach such a result.⁴²

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre
Chief, Enforcement Bureau

⁴² Although we deny Verizon's motion and will not reopen the Commission proceeding based on the current record, the question remains whether the Pa. PUC's proceedings on remand are subject to any deadline under section 224(c)(3), and, if so, what that deadline would be. Because the parties' briefs did not address this issue, we decline to address that issue at this time.