



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov

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WIRELINE COMPETITION BUREAU REMINDS REVERSE-PREEMPTION STATES OF OBLIGATION TO EFFECTIVELY REGULATE POLE ATTACHMENTS AND SEEKS COMMENT ON NEED FOR CHANGES TO THE COMMISSION'S CERTIFICATION RULES TO ENSURE EFFECTIVE STATE POLE ATTACHMENT REGULATION

WC Docket Nos. 17-84, 10-101

Comments Due: July 13, 2026

Reply Comments Due: July 27, 2026

By this Public Notice, the Wireline Competition Bureau (the Bureau) reminds states that regulate pole attachments of their obligation, pursuant to section 224 of the Communications Act of 1934, as amended (Act), to issue and make effective rules and regulations implementing their regulatory authority over pole attachments, and further emphasizes that these states must actually regulate the rates, terms, and conditions of pole attachments and have established procedures for resolving pole access complaints.¹

The pole attachment process is a key factor in ensuring Americans benefit from the increased broadband deployment enabled through government funding programs, including the \$42 billion Broadband Equity, Access, and Deployment (BEAD) Program. While the Commission has taken significant steps in recent years to accelerate the buildout of next-generation infrastructure on which high-speed broadband deployment depends, including through targeted changes to its pole attachment rules,² such actions pertaining to pole attachments may not apply in the 23 states and the District of Columbia that have certified to the Commission that they regulate pole attachments in their jurisdictions and have thus reverse-preempted Commission jurisdiction.³ As a result, these reverse-preemption states are important facilitators of broadband deployment through their pole attachment regulations.

However, there have been recent reports of challenges to deployment stemming from state regulation of pole attachments, or the lack thereof, and the potential for noncompliance with the

¹ 47 U.S.C. § 224(c); 47 CFR § 1.1405.

² *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking, and Orders on Reconsideration, 40 FCC Rcd 5395, 5456, para. 94 (2025) (*Fourth Further Notice*); *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, 38 FCC Rcd 12379 (2023); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, WT Docket No. 17-79, Third Report and Order and Declaratory Ruling, 33 FCC Rcd 7705, 7706, para. 1 (2018).

³ *States That Have Certified That They Regulate Pole Attachments*, WC Docket No. 10-101, Public Notice, 37 FCC Rcd 6724 (WCB 2022).

Commission's rules pertaining to reverse-preemption.⁴ We thus also seek comment on the current status of reverse-preemption state regulation and jurisdiction over pole attachments, as well as the Commission's jurisdiction in the face of incomplete or inadequate state regulation.

Reminder to reverse-preemption states. Section 224(c) of the Communications Act of 1934, as amended (the Act), provides that the Commission shall regulate pole attachments except “where such matters are regulated by a State.”⁵ In order for a state's reverse preemption to be effective, it must have “issued and made effective rules and regulations implementing the State's regulatory authority over pole attachments.”⁶ The state also must certify to the Commission that “(A) it regulates [the] rates, terms and conditions [of pole attachments]; and (B) in so regulating such rates, terms and conditions, [it] 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.”⁷

Section 1.1405 of the Commission's rules implements section 224(c) of the Act and largely mirrors the language of that section.⁸ Specifically, section 1.1405(b) establishes a rebuttable presumption that the state is not regulating pole attachments if the Commission does not receive the certification required by section 224(c) of the Act, as well as a certification that the state “has issued and made effective rules and regulations implementing the state's regulatory authority over pole attachments (including a specific methodology for such regulation which has been made publicly available in the state).”⁹ Section 1.1405(a) provides that a pole attachment complaint filed with the Commission alleging denial of access “shall be dismissed for lack of jurisdiction in any case where the defendant or a State offers proof that the State is regulating such access matters,” and a state's certification pursuant to section 1.1405(b) constitutes “conclusive proof of lack of jurisdiction of this Commission.”¹⁰

To date, 23 states and the District of Columbia have filed certifications with the Commission purporting to reverse-preempt some aspect of Commission jurisdiction over pole attachments.¹¹ These reverse-preemption states regulate pole attachments in different ways, both in terms of whom and what they regulate (e.g., attachments by cable providers, telecommunications providers, and/or broadband providers; poles owned by utilities, local exchanges companies, and/or government entities) and the

⁴ Alex Karras and Michael Santorelli, *Lingering Utility Pole Issues Could Raise Costs and Delay BEAD Buildout* (May 12, 2026) (Karras and Santorelli Article), <https://broadbandexpanded.com/posts/beadpoles>. The authors state that “BEAD will touch millions of poles that are not regulated by the FCC, where there are fewer guardrails in place to provide predictability and consistency in how pole-related costs are set.” *Id.* They recommend that states “should seize the opportunity to provide more clarity and consistency around poles by either opting into the FCC's framework if they haven't already done so or committing to aligning their rules with it.” *Id.*

⁵ 47 U.S.C. § 224(c)(1). Congress adopted section 224 of the Act in 1978 and directed the Commission to ensure that the rates, terms, and conditions for attachments by cable television systems to utility-owned poles were just and reasonable. Pole Attachment Act of 1978, Pub. L. No. 95-234, 92 Stat. 33 (1978). Congress extended Commission jurisdiction to include pole attachments by providers of telecommunications service via the Telecommunications Act of 1996 (47 U.S.C. § 224(a)(4), *as amended by* the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 703 (codified at 47 U.S.C. § 151 *et seq.*)) (the 1996 Act).

⁶ 47 U.S.C. § 224(c)(3)(A).

⁷ *Id.* § 224(c)(2).

⁸ 47 CFR § 1.1405.

⁹ *Id.* § 1.1405(b).

¹⁰ *Id.* § 1.1405(a). Section 1.1405(a) provides that “[s]uch proof should include a citation to state laws and regulations governing access and establishing a procedure for resolving access complaints in a state forum.” *Id.*

¹¹ *States That Have Certified That They Regulate Pole Attachments*, WC Docket No. 10-101, Public Notice, 37 FCC Rcd 6724 (WCB 2022).

specificity of their rules.¹² We also note that the majority of state reverse-preemption certifications were filed prior to 1996, when the pole attachment statutory and regulatory regime applied only to cable television systems.¹³

The reverse-preemption states play a key role in access to poles for the deployment of communications equipment. It is imperative that they follow the requirements laid out in the Act and in the Commission's rules to (1) issue and make effective rules and regulations implementing the state's regulatory authority over pole attachments; (2) regulate the rates, terms, and conditions of the pole attachments; and (3) establish procedures for resolving pole access complaints. Set against the backdrop of the federal government's focus on the ubiquitous deployment of next-generation broadband,¹⁴ which in many cases is undertaken by cable television providers and providers of telecommunications services, state pole attachment regulation can either advance that focus through clear and effective rules or become a roadblock to such deployment if a state adopts a pole attachment regime that is incomplete or unclear or fails to adopt pole attachment regulations in the first instance.

While recent federal investments "provide state broadband offices with a once-in-a-generation opportunity to address one of the key drivers of the digital divide by funding the deployment of new network infrastructure to every unserved and underserved household and business in the country,"¹⁵ recent reports indicate that insufficient state regulation of pole attachments in certain of the 23 current reverse-preemption states has the potential to be a barrier to broadband deployment.¹⁶ For example, a

¹² Note that some states, such as Pennsylvania and West Virginia, have adopted the Commission's pole attachment regime. *See, e.g.*, 66 Pa. Cons. Stat. § 3001 et seq.; 52 Pa. Code Chapter 77; W. Va. Code § 31G-4-4; W. Va. Code R. Title 150 Series 38.

¹³ Eighteen states, and the District of Columbia, filed their initial reverse-preemption certifications prior to 1996 and thus before Congress extended Commission pole attachment jurisdiction to providers of telecommunications services. *Implementation of Section 703(e) of the Telecommunications Act of 1996, Amendment of the Commission's Rules and Policies Governing Pole Attachments*, Notice of Proposed Rulemaking, 12 FCC Rcd 11725, 11751, para. 71 (1997). The Commission established WC Docket No. 10-101 to collect and maintain state pole attachments certifications and addenda.

¹⁴ *See, e.g.*, Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60102, 135 Stat. 429, 1182-1205 (2021) (codified at 47 U.S.C. § 1702) (Infrastructure Act) (directing the National Telecommunications and Information Administration to implement a \$42 billion Broadband Equity, Access, and Deployment (BEAD) Program); *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686 (2020) (establishing an auction framework to distribute up to \$20.4 billion in support for connecting millions more homes and small businesses in rural areas to broadband networks); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 905(c), 134 Stat. 1182 (2020), as amended by the Infrastructure Act § 60201 (providing up to \$3 billion in funding for NTIA's Tribal Broadband Connectivity Fund); American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 604, 135 Stat. 4 (2021) (granting \$10 billion to the U.S. Treasury Department to allocate via its Capital Projects Fund to eligible governments to carry out critical capital projects that directly enable work, education, and health monitoring, including high-quality and affordable broadband infrastructure and digital connectivity projects); U.S. Dept. of Agriculture, Rural Development, *Telecom Programs*, <https://www.rd.usda.gov/programs-services/telecommunications-programs> (last visited May 28, 2026) (giving an overview of various loan and grant funding programs for rural broadband infrastructure projects under the U.S. Department of Agriculture's Rural Utilities Service); Infrastructure Act § 60401 (establishing grants for middle mile infrastructure); *id.* § 60502 (providing \$14.2 billion to establish the Affordable Connectivity Program).

¹⁵ *See, e.g.*, Pew, *Broadband Expansion May Hinge on States' Processes for Attaching Lines to Utility Poles* (Sept. 25, 2025), <https://www.pew.org/en/research-and-analysis/issue-briefs/2025/03/broadband-expansion-may-hinge-on-states-processes-for-attaching-lines-to-utility-poles>.

¹⁶ *Id.* ("States will need to identify and implement steps to reduce the costs of and barriers to broadband deployment of federal funds, but they have limited time to do so before BEAD projects are finalized. Key policy reforms can help states meet the tight timelines and be ready to deploy their federal allocations and ensure that all of their unserved and underserved communities receive the highspeed internet service they urgently need."); Bartlett

(continued....)

recent article notes that BEAD-funded projects will “touch an estimated 3,954,030 utility-owned poles across 2,053 electric utility service territories, based on 188,287 planned aerial fiber route-miles,” and that pole-related costs for BEAD buildouts could range from \$534 million to \$4.63 billion.¹⁷ However, the authors assert that pole attachment regulation is “scattershot” and “highly fragmented.”¹⁸ We thus remind reverse-preemption states of their obligation to effectively and clearly regulate pole attachments in their jurisdictions to ensure consistency with the reverse-preemption requirements in section 224(c) of the Act and the Commission’s rules and certainty for attachers and pole owners, thus facilitating faster and cheaper deployment.¹⁹

Seeking comment on the status of state pole attachment regulation. Given the apparent differences in pole attachment regulation among the reverse-preemption states, we seek comment on options the Commission could pursue to make state reverse-preemption pole attachment regulations more transparent and effective and to better ensure state compliance with the statute and the Commission’s regulations setting forth the requirements for effective reverse preemption to best address the urgency and potential for broadband deployment brought about by government and private funding opportunities.²⁰ For example, given the inconsistencies and possible inadequacies among the reverse-preemption states’ respective regulations, should the Commission require these states to recertify and include in those recertifications greater specificity about who and what they regulate *vis-a-vis* pole attachments so that attachers, pole owners, states, and the Commission have a clearer understanding of the boundaries of reverse-preemption state regulation?²¹ Further, the majority of state reverse-preemption certifications were filed at a time when the pole attachment statutory and regulatory regime applied only to cable television systems. Although Congress extended Commission jurisdiction over pole attachments by telecommunications carriers via the 1996 Act, the Commission has never issued any guidance on whether state certifications filed prior to 1996 are sufficient to preserve states’ reverse preemption for providers of telecommunications services. We thus seek comment on whether state certifications filed before 1996 are

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Cleland, *Stop making broadband builders bankroll someone else’s problem* (Apr. 27, 2026), <https://www.washingtontimes.com/news/2026/apr/27/stop-making-broadband-builders-bankroll-someone-elses-problem/> (“States that fail to align their pole attachment regimes with federal standards are not protecting their utilities; they are simply causing delay, erasing affordability and hampering innovation.”).

¹⁷ Karras and Santorelli Article.

¹⁸ *Id.*

¹⁹ See Letter from Maria Browne, Counsel to GoNetspeed, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-101, at 3 (filed Oct. 25, 2024) (alleging certain shortcomings in the pole attachment regime in Massachusetts and “urg[ing] the Commission to remind certified states of their obligation, pursuant to Section 224(c)(3)(A) to issue and make effective rules and regulations implementing their jurisdiction”).

²⁰ As noted in a recent report prepared by Mera Analytics analyzing BEAD funding, “[w]hether a state regulates its utility poles (versus the FCC) is one of several factors that can influence pole related costs.” Mera Analytics, *BEAD Pole Analysis*, at 3 (May 11, 2026), <https://broadbandexpanded.com/files/data/bead/BEAD Pole Analysis - May 2026.pdf>. According to the report, disparate pole attachment regulation among reverse-preemption states and the Commission “has resulted in electric utilities charging a broad range of different fees to ISPs seeking to attach equipment on their poles.” *Id.*

²¹ In the 2025 *Fourth Further Notice*, the Commission sought comment on certain issues related to state reverse-preemption certifications. Specifically, the Commission sought comment on: (1) whether the Commission should require all states that have reverse preempted the Commission’s jurisdiction to date to refile the certifications required under section 224(c) of the Act to specify the pole attachment matters over which they assert jurisdiction; (2) whether the Commission should amend its rules implementing section 224(c) of the Act to require states seeking to reverse preempt the Commission’s jurisdiction in the future to specify such details; and (3) what impact would bifurcating a state’s pole attachment jurisdiction (i.e., regulating some, but not all, of attachments by cable, telecommunications, or broadband providers) have on pole attachment regulation in the states and at the federal level. *Fourth Further Notice*, 40 FCC Rcd at 5456, para. 94.

sufficient for the purpose of regulating attachments by providers of telecommunications services, as well as whether state certifications generally should be updated whenever a state revises the jurisdictional impact of its pole attachment rules.

We also seek comment on whether the Commission has a duty to review state certifications to ensure that the state pole attachment regulatory regime cited in such certifications is adequate to meet the requirements set forth in section 224(c) of the Act and section 1.1405 of the Commission's rules. What action, if any, should the Commission take if it determines that certification by a reverse-preemption state does not fully demonstrate that the state has in place effective rules and regulations implementing the state's regulatory authority over pole attachments? What action, if any, should the Commission take if it determines that a state does not actually regulate the rates, terms, and conditions of pole attachments or have procedures for resolving pole access complaints? In either of these instances, should the Commission consider the state's certification invalid and thus assert jurisdiction over pole attachment matters brought to the Commission from that state? What else, if anything, can the Commission do to ensure that attachers in reverse-preemption states are not subject to unnecessary costs and delay for their broadband infrastructure projects that might be due to incomplete or inadequate state pole attachment regulation?

Comment filing rules. This proceeding in WC Docket Nos. 17-84 and 10-101 shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.²² Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Comment Filing Procedures. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (May 1, 1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**

²² 47 CFR § 1.1200 *et seq.*

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

Contact Person. For further information, please contact Michele Berlove, FCC Wireline Competition Bureau, Competition Policy Division, at (202) 418-1477, or michele.berlove@fcc.gov, or Michael Ray, FCC Wireline Competition Bureau, Competition Policy Division, at (202) 418-0357 or michael.ray@fcc.gov.