

# United States Senate

WASHINGTON, DC 20510-4805

October 17, 2023

961

The Honorable Jessica Rosenworcel  
Chairwoman  
Federal Communications Commission  
45 L Street NE  
Washington DC 20554

Dear Chairwoman Rosenworcel,

Ensuring that all American families have access to broadband service and the significant benefits it brings is a top priority for the current Congress, and me, personally. Through multiple, bipartisan legislative initiatives that I helped establish, particularly the BEAD program, enormous Federal investments are being made to deploy broadband networks to those households currently without any internet access.

For these efforts to be successful, however, the Federal Communications Commission (“the Commission”) must do its part to ensure broadband construction is promptly and efficiently completed to unserved communities. Unfortunately, I continue to hear about problems and delays associated with broadband providers getting reasonable and timely access to utility poles as part of their broadband deployment efforts in West Virginia. I understand that this issue is widespread. The Commission can and must do everything possible to stop this harmful behavior and end practices and tactics that are slowing or halting broadband network deployment. The trend of deployment costs increasing also warrants attention to ensure that federal funds are not being wasted. As such, I seek the assistance of you and your fellow commissioners to immediately take action to improve this situation.

In particular, taking action in the Commission's long-standing pole attachment proceeding is an important first step. The proceeding was started over three years ago, the record is complete and the time is right for the Commission to act in a unanimous fashion. The Commission's actions related to reasonable and timely pole access sets an important precedent, even for pole owners not subject to the Commission's jurisdiction and in states that have adopted their own pole attachment rules.

The very diverse landscape of our nation means that many broadband network construction efforts cannot be buried underground. West Virginians are well aware of this fact as the Appalachian Mountains make such underground deployment impossible. West Virginia's challenging topography is shared in other communities across the country, and a disproportionate amount of unserved households can be found in mountainous areas. In these hard to serve regions of the country, broadband networks are dependent on access to an existing and long established network of utility poles. Yet, as has been documented to the Commission in the record of its open pole proceeding, the process for obtaining timely and reasonable access to poles is too often obstructed due to a number of

factors such as workforce shortages and pole owners that are seeking to offer broadband services and receive funding from federal broadband programs.

In West Virginia, pole attachment disagreements are already a major obstacle to deployment and will become even more problematic as additional government broadband funding is allocated and put to use. In fact, West Virginia's State Broadband Office leadership has publicly declared that reaching pole attachment agreements is the biggest source of delay in deploying federal broadband funding. Specifically, inconsistent policies that allow pole access by owners are keeping some broadband networks from being built. These are the kinds of policies that could further prevent the 271,000 West Virginia locations that are currently unserved according to the FCC's maps. Moreover, the State Broadband Office has noted that these issues are unnecessarily draining the resources of broadband providers, as it has documented massive increases in rates sought by pole owners compared to those from just a few years ago.

The pole attachment experience in West Virginia is unfortunately not uncommon across our country. Absent prompt attention by the Commission to act quickly on pending issues before it – such as establishing a fair sharing of pole replacement cost with an expedited process for resolving disputes – likely will result in missed deadlines and timelines for network construction, as well as changes to deployment plans that will mean that millions of Americans without broadband will have to wait even longer.

I look forward to your prompt attention to this matter.

Sincerely,



Shelley Moore Capito  
United States Senator

cc: The Honorable Brendon Carr  
The Honorable Geoffrey Starks  
The Honorable Nathan Simington  
The Honorable Anna Gomez