

**STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION**

Docket No. DRM 17-139

**Rulemaking – N.H. Code Admin. Rules Puc 1300
Utility Pole Attachment Rules Readoption and Amendment**

**CENTURYLINK'S INITIAL COMMENTS
ON PROPOSED POLE ATTACHMENT RULES**

CenturyLink Communications, LLC, Level 3 Communications, LLC, Broadwing Communications, LLC, WilTel Communications, LLC, Global Crossing Telecommunications, Inc., Global Crossing Local Services, Inc., TelCove Operations, LLC, and Level 3 Telecom Data Services, LLC (“CenturyLink Operating Companies”) submit these initial comments on the Initial Proposal for Readoption with Amendments of the Puc 1300 rules filed with the Office of Legislative Services on November 28, 2017 (“Initial Proposed Rules”).

CenturyLink offers a wide range of technology solutions in 500 markets in all 50 states, including New Hampshire. In November, CenturyLink acquired Level 3 Communications, Inc., and is now the second largest U.S. communications provider to global enterprise customers. The CenturyLink Operating Companies listed above provide advanced broadband and telecommunications services, and to do so, they deploy fiber optics and other facilities within the State. Of necessity, we attach these facilities to many poles owned by electric utilities and other telecommunications utilities in the State, and pay monthly recurring charges in addition to make-ready costs, to pole owners under pole attachment agreements. These facilities are then used to provide broadband services, voice, unified communications solutions and a comprehensive portfolio of data, security and video services to enterprise customers, carriers, and government customers in New Hampshire which are ultimately connected to our global network.

CenturyLink offers a balanced and unique perspective on pole attachments, as both a pole-owner (owning over 2 million poles across the country) and as a pole-attacher (with over 5 million pole attachments across the country). We will continue to build infrastructure which will require timely access to pole attachments at reasonable terms and conditions. As well, having consistent and predictable rules is critical to the timely deployment of facilities to meet customer demands.

CenturyLink applauds the staff and Commission for efforts to revise and update its 2009 pole attachment rules. This Commission's authority over pole attachments is derived from 47 U.S.C. § 224(c) that allows states to preempt the FCC jurisdiction over the rates, terms and conditions of pole attachments and to 'certify' to the FCC that the state has implemented rules to address those issues. New Hampshire has exercised this reverse preemption mechanism. Its statutory framework requires the Commission to adopt rules to ensure nondiscriminatory access to poles and in doing so, the Commission is also vested with authority to regulate and enforce rates, charges, terms and conditions for attachments, to set appropriate formulas for apportioning costs, as well as to adopt effective dispute resolution procedures.¹ With some modest updates to the Initial Proposed Rules, the New Hampshire rules will be a significant step toward enabling additional broadband deployment in New Hampshire, facilitating timely deployment of new attachments and promoting cost-effective and more efficient broadband proliferation.

A. The Initial Proposed Rule Revisions Provide Important Safeguards for Facilitating Broadband Deployment.

At the hearing on January 24, 2018, CenturyLink reflected that there is a national focus on accelerating broadband deployment. The efforts to reform the pole attachment rules in New Hampshire is timely as other New England states and the FCC are revisiting their rules to shorten

¹ RSA 374:34-a, II-VII.

the time frames for attaching, improving the pole attachment process by eliminating cumbersome processes and taking measures to ensure that costs are fair and reasonable. To meet our customers' demands for network and services, we need to be able to quickly and predictably build network. Consistency and predictability in time frames, processes and costs associated with our network builds, including pole attachments, is the cornerstone of network deployment. With certain modifications,² which were discussed at the January 24 hearing, New Hampshire's pole attachment rules will be on par with other reverse preemption states as well as states that follow the FCC's rules.³

B. The Rules Must Establish a Process to Ensure Non-Discrimination.

As required by RSA 374:34-a VI, pole owners must provide nondiscriminatory access to their poles. To effectuate that statutory mandate, the Commission should incorporate this specific nondiscrimination requirement in its regulations. CenturyLink recommends beginning with Puc 1301.01, as follows:

Puc 1301.01 Purpose. The purpose of Puc 1300, pursuant to the mandate of RSA 374:34-a, is to ensure rates, charges, terms, and conditions for pole attachments that are just, ~~and~~ reasonable **AND NON-DISCRIMINATORY**.

² Attached hereto as Exhibit A, CenturyLink provides a redlined version of its proposed modifications, additions and deletions to Initial Proposed Rules which are discussed below by topic. Additions to the Initial Proposed Rules are set forth in BOLD/UNDERLINE SMALL CAPS and deletions are reflected with a double strikeout.

³ Decisions on the deployment of network can be influenced by pole attachment rules and processes, both among, and between, reverse preemption states and the states that follow the FCC rules. The FCC recognized that pole attachment rates, terms and conditions impact investment decisions made by telecommunications providers in determining where to deploy capital investment and moved toward creating more uniform rules, stating "we additionally act to support incentives for deployment of broadband facilities, particularly in rural areas, and to harmonize regulatory treatment between states where the Commission regulates the rates, terms, and conditions for pole attachments and states where such matters are regulated by the state." *In the Matter of Implementation of Section 244 of the Act; A National Broadband Plan for Our Future*, Order On Reconsideration, FCC 10-84, 30 FCC Rcd 13731, ¶ 4 (2015).

Absent from the rules, however, is any mechanism for a new attacher to determine that the rates, terms and conditions being offered by the pole owner are consistent with those offered to prior attachers. Some states, such as Vermont, require each pole-owning utility to file a pole attachment tariff and that tariff can incorporate a standard contract or license.⁴ Vermont pole owners may also enter into contracts which are then required to be submitted to the Vermont Commission for review and treated as a public record.⁵ New Hampshire pole owners and attachers are obligated to negotiate under the rules, but the rules currently lack any method for the public or other pole attachers to view the rates⁶, terms and conditions that are charged to other pole attachers or set forth in a pole attachment agreement unless the parties bring a formal dispute to the Commission. This disparity in information between the bargaining parties is an impediment to the implementation of the nondiscrimination requirement of the statute. The Commission could make a simple modification to the rule to allow attachers to request copies of prior pole attachment agreements and, correspondingly, requiring pole owners to provide such copies to requesting attachers. CenturyLink recommends the following addition:

Puc 1303.02 Owner Obligation to Negotiate. The owner or owners of a pole shall, upon the request of a person entitled to access under these rules seeking a pole attachment, negotiate in good faith with respect to the terms and conditions for such attachment.
UPON REQUEST, THE OWNER OR OWNERS OF A POLE SHALL PROVIDE THE REQUESTING ATTACHER WITH COPIES OF POLE ATTACHMENT AGREEMENTS WITH OTHER ATTACHERS.

This simple addition to the process will ensure the rules are consistent with the obligations to provide non-discriminatory access to poles and provide the new attacher with the ability to review

⁴ See Vermont Public Utilities Commission Rule 3.703, available at: <http://puc.vermont.gov/document/board-rule-3700-pole-attachments> (last visited Jan. 30, 2018).

⁵ See Vermont Public Utilities Commission Rule 3.704(A)

⁶ One way to ensure that rates are nondiscriminatory is simply to adopt or mirror the rate methodology of the FCC. It is the most widely-used, easy-to-administer (without Commission intervention) and transparent pole-rate methodology in the nation. The Commission is specifically authorized to adopt an appropriate formula (like the FCC formula) for apportioning costs. See RSA 374:34-a.

other pole attachment agreements to ensure it is obtaining non-discriminatory terms and conditions for attachment.

C. The Rules Need Streamlined Time-Frames and Processes from Submission of the Application through Completion of Make-Ready Work.

The Initial Proposed Rules fail to address the need to streamline the entire pole attachment process. Instead, the rules only have two timeframes specifically identified – (1) the 45-day response required once an application is submitted⁷ and (2) the 150-day window to complete make-ready work once payment is received.⁸ However, as CTIA pointed out in its October 13, 2017 comments in this docket, the FCC's rules contain provisions that set maximum timeframes for the application processing, the performance of pre-construction surveys and make-ready work. The FCC's four-stage timeline results in a maximum of 148 days for all four stages (survey – 45 days; estimate of make-ready – 14 days; attacher acceptance – 14 days; and completion of make-ready work – 60-75 days), which could be shortened even further as a result of the FCC's open proceeding.⁹ Surrounding states have also taken steps to shorten the delays associated with pole attachment access. New York requires owners to complete make-ready work within 45 days of receiving payment from the attacher.¹⁰ Maine's recently revised rules sets the date for completion of make-ready work for not later than 90 days after notification is sent to attaching entities.¹¹ And

⁷ See Puc 1303.04

⁸ See Puc 1303.12

⁹ *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, 32 FCC Rcd 3266, 3268-70 ¶¶ 7-12 (2017). CenturyLink has urged the FCC to streamline the make-ready process even more by consolidating the survey and estimate into a single 45-day period, and allowing attaching entities to engage outside contractors at the outset of the process to facilitate make-ready work among attachers.

¹⁰ New York Public Service Commission *Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues*, Case 03-M-0432, Order Adopting Polity Statement on Pole Attachments, at 3 (Aug. 6, 2004).

¹¹ Maine Public Utilities Commission, Chapter 880, Section 5, available at: <https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/CaseMaster.aspx?CaseNumber=2017-00247> (last visited Jan. 30, 2018).

Connecticut has determined that a 90-day time interval should be the objective for the pole attachment process, which includes the 45 days for the survey and estimate and a 45-day period to complete the make-ready work.¹² New Hampshire's timeframe of at least 195 days could allow for undue delays in the provision of service to customers.

CenturyLink recommends the Commission modify its rule to simply incorporate the FCC's rules. As those rules are revised and the process is possibly shortened, New Hampshire will be able to take advantage of the best-in-class processes to facilitate deployment of facilities in a timely fashion. Our proposed edits delete the language in Puc 1303.04 and 1303.12 and replace it with a provision incorporating by reference the FCC's rules as set forth in 47 CFR § 1.1420 through 1.1422, as amended from time to time, so that the most current version of the rules and time frames are implemented in the New Hampshire rules. And, additional amendment to the notification requirements of current attachers in section of Puc 1303.06 is needed to clarify that an additional 60 days is not added to the make-ready work timelines. Those sections would now read:

Puc 1303.04 Request for Access and Response Requirements. **THE TIMELINES AND PROCEDURES FOR ACCESS TO POLES SHALL COMPLY WITH THE TIME LIMITS AND PROCESSES FOR SUBMISSION OF REQUESTS, SURVEYS, ESTIMATES AND MAKE-READY AS SET FORTH IN 47 CFR §1.1420 THROUGH 47 CFR § 1.1422 (AS MAY BE AMENDED FROM TIME TO TIME).** ~~Requests made under these rules and pursuant to a pole attachment agreement for access to a utility's poles shall be in writing. Absent circumstances beyond the pole owner's control, such as *force majeure*, a survey for an application not exceeding 200 poles shall be completed and the results communicated to the applicant seeking to attach within 45 days of receiving a completed application and survey fee. Pole owners shall grant or deny access in writing within 45 days of receiving a complete request for access. The owner's denial of access shall be specific, shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information represent relate to the grounds for denial as specified in Puc 1303.01 for such denial.~~

Puc 1303.12 Make-Ready Work Timeframes. ~~Unless otherwise agreed by parties to a pole attachment agreement, poleIf make-ready work involves 300 poles or fewer, the~~

¹² Connecticut Public Utilities Regulatory Authority, *DPUC Review of the State's Public Service Company Utility Pole Make-Ready Procedures – Phase 1*, Docket No. 07-02-13, at pp 17-20 (Apr. 30, 2008).

~~owner or owners of a pole shall ensure that all complete make-ready work is completed within 150 days after any required pre-payments are rendered for make-ready work estimates provided to the attaching entity by the pole owner or owners of the pole. If Where make-ready work involves requires 10 poles or fewer less and no pole replacements, the all make-ready work shall be completed within 45 days after any required pre-payments for estimates are rendered. If make-ready work involves more than 300 poles, the owner or owners of a pole and the attaching entity shall negotiate a schedule for completion of such make-ready work in good faith.~~ **THE TIMELINES AND PROCEDURES FOR COMPLETION OF MAKE-READY WORK SHALL COMPLY WITH THE TIME LIMITS AND PROCESSES AS SET FORTH IN 47 CFR § 1.1420 THROUGH 47 CFR § 1.1422 (AS MAY BE AMENDED FROM TIME TO TIME).**

Puc 1303.06 Notification.

(a) ~~The owner or owners of a~~ **A pole owner** shall provide written notice to an attaching entity not less than 60 days ~~written notice~~ prior to:

- (1) Removing any of that person's facilities;
- (2) Increasing any annual or recurring fees or rates applicable to the pole attachment; or
- (3) Modifying the facilities other than as part of routine maintenance or in response to an emergency. **THE NOTIFICATION AND METHODS FOR MODIFICATION AND/OR REARRANGMENT OF FACILITIES AS PART OF THE MAKE-READY WORK NECESSARY FOR A NEW ATTACHER ARE PROVIDED FOR IN SECTION PUC 1303.12.**

The CFR sections we propose be incorporated into the New Hampshire rules reflect a balancing of interests, providing flexibility for extensions of time, addressing the unique needs for large orders, while providing certainty and streamlined processes for attachers. They allow for an attacher to use utility-approved contractors to perform make-ready work when the utility is unable to complete it in the applicable time frame. For multistate attachers and operators of national networks, like CenturyLink, the FCC's rules provide a consistent and familiar set of rules across multiple states. The relevant sections from the CFR that are referenced above includes the following:

§ 1.1420 Timeline for access to utility poles.

(a) The term "attachment" means any attachment by a cable television system or provider of telecommunications service to a pole owned or controlled by a utility.

(b) All time limits in this subsection are to be calculated according to § 1.4.

(c) Survey. A utility shall respond as described in § 1.1403(b) to a cable operator or telecommunications carrier within 45 days of receipt of a complete application to attach facilities to its utility poles (or within 60 days, in the case of larger orders as described in paragraph (g) of this section). This response may be a notification that the utility has completed a survey of poles for which access has been requested. A complete application is an application that provides the utility with the information necessary under its procedures to begin to survey the poles.

(d) Estimate. Where a request for access is not denied, a utility shall present to a cable operator or telecommunications carrier an estimate of charges to perform all necessary make-ready work within 14 days of providing the response required by § 1.1420(c), or in the case where a prospective attacher's contractor has performed a survey, within 14 days of receipt by the utility of such survey.

(1) A utility may withdraw an outstanding estimate of charges to perform make-ready work beginning 14 days after the estimate is presented.

(2) A cable operator or telecommunications carrier may accept a valid estimate and make payment any time after receipt of an estimate but before the estimate is withdrawn.

(e) Make-ready. Upon receipt of payment specified in paragraph (d)(2) of this section, a utility shall notify immediately and in writing all known entities with existing attachments that may be affected by the make-ready.

(1) For attachments in the communications space, the notice shall:

(i) Specify where and what make-ready will be performed.

(ii) Set a date for completion of make-ready that is no later than 60 days after notification is sent (or 105 days in the case of larger orders, as described in paragraph (g) of this section).

(iii) State that any entity with an existing attachment may modify the attachment consistent with the specified make-ready before the date set for completion.

(iv) State that the utility may assert its right to 15 additional days to complete make-ready.

(v) State that if make-ready is not completed by the completion date set by the utility (or, if the utility has asserted its 15-day right of control, 15 days later), the cable operator or telecommunications carrier requesting access may complete the specified make-ready.

(vi) State the name, telephone number, and e-mail address of a person to contact for more information about the make-ready procedure.

(2) For wireless attachments above the communications space, the notice shall:

(i) Specify where and what make-ready will be performed.

(ii) Set a date for completion of make-ready that is no later than 90 days after notification is sent (or 135 days in the case of larger orders, as described in paragraph (g) of this section).

(iii) State that any entity with an existing attachment may modify the attachment consistent with the specified make-ready before the date set for completion.

(iv) State that the utility may assert its right to 15 additional days to complete make-ready.

(v) State the name, telephone number, and e-mail address of a person to contact for more information about the make-ready procedure.

(f) For wireless attachments above the communications space, a utility shall ensure that make-ready is completed by the date set by the utility in paragraph (e)(2)(ii) of this section (or, if the utility has asserted its 15-day right of control, 15 days later).

(g) For the purposes of compliance with the time periods in this section:

(1) A utility shall apply the timeline described in paragraphs (c) through (e) of this section to all requests for pole attachment up to the lesser of 300 poles or 0.5 percent of the utility's poles in a state.

(2) A utility may add 15 days to the survey period described in paragraph (c) of this section to larger orders up to the lesser of 3000 poles or 5 percent of the utility's poles in a state.

(3) A utility may add 45 days to the make-ready periods described in paragraph (e) of this section to larger orders up to the lesser of 3000 poles or 5 percent of the utility's poles in a state.

(4) A utility shall negotiate in good faith the timing of all requests for pole attachment larger than the lesser of 3000 poles or 5 percent of the utility's poles in a state.

(5) A utility may treat multiple requests from a single cable operator or telecommunications carrier as one request when the requests are filed within 30 days of one another.

(h) A utility may deviate from the time limits specified in this section:

(1) Before offering an estimate of charges if the parties have no agreement specifying the rates, terms, and conditions of attachment.

(2) During performance of make-ready for good and sufficient cause that renders it infeasible for the utility to complete the make-ready work within the prescribed time frame. A utility that so deviates shall immediately notify, in writing, the cable operator or telecommunications carrier requesting attachment and other affected entities with existing attachments, and shall include the reason for and date and duration of the deviation. The utility shall deviate from the time limits specified in this section for a period no longer than necessary and shall resume make-ready performance without discrimination when it returns to routine operations.

(i) If a utility fails to respond as specified in paragraph (c) of this section, a cable operator or telecommunications carrier requesting attachment in the communications space may, as specified in § 1.1422, hire a contractor to

complete a survey. If make-ready is not complete by the date specified in paragraph (e)(1)(ii) of this section, a cable operator or telecommunications carrier requesting attachment in the communications space may hire a contractor to complete the make-ready:

- (1) Immediately, if the utility has failed to assert its right to perform remaining make-ready work by notifying the requesting attacher that it will do so; or
- (2) After 15 days if the utility has asserted its right to perform make-ready by the date specified in paragraph (e)(1)(ii) of this section and has failed to complete make-ready.

§ 1.1422 Contractors for survey and make-ready.

(a) A utility shall make available and keep up-to-date a reasonably sufficient list of contractors it authorizes to perform surveys and make-ready in the communications space on its utility poles in cases where the utility has failed to meet deadlines specified in § 1.1420.

(b) If a cable operator or telecommunications carrier hires a contractor for purposes specified in § 1.1420, it shall choose from among a utility's list of authorized contractors.

(c) A cable operator or telecommunications carrier that hires a contractor for survey or make-ready work shall provide a utility with a reasonable opportunity for a utility representative to accompany and consult with the authorized contractor and the cable operator or telecommunications carrier.

(d) The consulting representative of an electric utility may make final determinations, on a nondiscriminatory basis, where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

D. Expedited Dispute Resolution Processes are Necessary to Ensure that New Attachers can Serve Customers in a Timely Fashion.

Critically important to the ability to attach is the process to resolve disputes when attachments are denied, or costs, terms and conditions are not just, reasonable and nondiscriminatory. RSA 374:34-a VII specifically authorizes the Commission to hear and resolve complaints concerning rates, charges, terms, conditions, voluntary agreements, or any denial of access relative to pole attachments. The Commission's existing rule simply defaults to the Commission's adjudicative proceeding pursuant to Puc 203. While there may not have historically

been a large number of disputes brought to the Commission, having an effective and efficient resolution process can facilitate company-to-company resolution of disputes before they become formal disputes. If deployment is stalled due to a pole attachment dispute, asking a customer to wait for service while the parties work through a non-expedited process is untenable. Expedited pole attachment access is critical to ensuring that New Hampshire's telecommunications providers meet the needs and expectations of customers, including businesses and government entities. CenturyLink recommends the Commission consider expedited dispute procedures that might include a mix of informal and formal processes, with shortened hearing, oral argument and briefing time frames to ensure decisions are made in a matter of days or weeks instead of months or years. The FCC is considering placing a 'shot clock' on its resolution of pole attachment disputes.¹³ Maine recently adopted, in its pole attachment rules, an expedited complaint resolution process. Exhibit A includes a redlined version of that process added to Puc 1304.05 for the Commission's consideration.

E. Definitional and Cost Clarification will Reduce Potential Disputes.

CenturyLink suggests a handful of changes to the Initial Proposed Rules that will add clarification to definitions and cost allocations.

1. Clarification Is Needed for Remediating Preexisting Violations and Duplicate Poles.

The Initial Proposed Rules clarify that the new attacher is not responsible for the costs associated with bringing a pole or attachment into compliance. Additional language should be added to Puc 1302.08 and 1303.07(c) to clarify that if an old or duplicate pole was not removed at

¹³ *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, 32 FCC Rcd 3266, 3280-81, ¶¶ 47-48 (2017).

the time the new pole was set, the costs to do so now are not imposed on the next attacher in that area. The proposed revisions are:

Puc 1302.087 "Make-ready work" means all work, including, but not limited to, rearrangement or transfer of existing facilities, replacement of a pole, complete removal of any pole replaced, or any other changes required SOLEY to accommodate the attachment of the facilities of the party requesting attachment to the pole. **MAKE-READY WORK DOES NOT INCLUDE COSTS TO REMOVE ANY PREEXISTING DUPLICATE OR ABANDONED POLE NOR DOES IT INCLUDE THE COSTS TO BRING ANY PREEXISTING POLE OR EXISTING ATTACHMENT INTO COMPLIANCE WITH APPLICABLE STANDARDS OR CODES IF SUCH POLE OR ATTACHMENT WAS OUT OF COMPLIANCE PRIOR TO THE REQUEST FOR ACCESS.**

Puc 1303.07 Installation and Maintenance.

(c) ~~If~~^{Where} a pole or existing attachment is not in compliance with applicable standards and codes and must be brought into compliance before a new attachment can be added, the cost of bringing that pole or existing attachment into compliance **OR THE COST TO REMOVE A DUPLICATE POLE THAT WAS NOT REMOVED WHEN A POLE WAS REPLACED EARLIER** shall not be assessed~~shifted~~ to or imposed on the entity seeking to add a new attachment.

2. **Additional Provisions Need to be Added to Permit Overlashing.**

Overlashing allows providers to add lightweight fiber cables, fiber splice closures and similar incidental equipment to existing facilities on the pole without making a new attachment or using any additional space on the pole. The ability to overlash allows providers to upgrade network, provide prompt service to new customers, modify or expand their broadband facilities safely and respond to emergencies. New Hampshire's Initial Proposed Rule is silent on the processes for overlashing. While it is likely contained in pole attachment contracts, other surrounding states have included it in rules.¹⁴ The FCC long ago addressed overlashing and

¹⁴ Vermont Public Utilities Commission Rule 3.708(I). Maine Public Utilities Commission Rule Chapter 880, Section 2(A)(1).

determined it is not a new attachment and did not require prior notice.¹⁵ CenturyLink's experience as both a pole owner and attacher confirms that a pole owner's prior approval of wire-to-wire overlashing¹⁶ is unnecessary. CenturyLink allows parties to overlash fiber optic cable to their own attachments on CenturyLink poles, subject to a requirement that the overlashing party provide appropriate notice within 10 days of overlashing. CenturyLink recommends a definition of overlash be added to the rule, and the rule renumbered accordingly, and language be added to Puc 1303.05 to allow overlashing with 10 days post notice.

INSERT NEW DEFINITION OF "OVERLASH". "OVERLASH" IS NOT CONSIDERED AN ATTACHMENT AND MEANS THE TYING OR LASHING OF ADDITIONAL COMMUNICATIONS WIRES, CABLES, FIBER-SPLICE CLOSURES OR SIMILAR INCIDENTAL EQUIPMENT TO AN ATTACHER'S OWN EXISTING COMMUNICATIONS WIRES, CABLE OR SUPPORTING STRAND ALREADY ATTACHED TO POLES.

Puc 1303.05 Authorization Required. No person may attach facilities to a pole without authorization in writing from the pole owner or owners prior to attaching such facilities, in accordance with Puc 1303.04. **NOTWITHSTANDING THE FORGOING, AN ATTACHING ENTITY MAY OVERLASH TO ITS OWN EXISTING FACILITIES SO LONG AS WRITTEN NOTICE OF OVERLASH IS PROVIDED WITHIN 10 DAYS AFTER MAKING IT.**

3. Citation to the FCC's rules should be to the most current rules.

The Initial Proposed Rules do update the out-of-date 2007 reference to the FCC's current rate methodology in Puc 1304.06 and in Puc 1304 which details the information required to be submitted to the Commission in the event of a dispute consistent with the FCC's petition requirements. However, the FCC continues to update and revise its pole attachment rules and

¹⁵ *In the Matter of the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 96-98, et al, First Report and Order, 11 FCC Rcd 15499, 16075 ¶ 1161 (1996) (subsequent history omitted); See also *In the Matter of Amendment of Commission's Rules and Policies Governing Pole Attachments; In the Matter of Implementation of Section 703(e) of the Telecommunications Act of 1996*, CS Docket No. 98-87, et al., Consolidated Partial Order on Reconsideration, 16 FCC Rcd 12103, 12140-41 ¶ 73 (2001).

¹⁶ Wire-to-wire overlashing is where a new cable is wrapped around an existing wire, rather than being strung separately.

there is an existing rulemaking open.¹⁷ CenturyLink recommends the statutory references be retained without reference to an effective date, and instead just reference the 'then current' or 'effective at the time of the dispute' in order to incorporate the most current version of the CFR. We reflect those edits in redline form on Exhibit A, attached.


Conclusion

CenturyLink appreciates the opportunity to provide insight and recommendations to the Commission on reforms to its pole attachment rules. The desire for affordable and quick access to pole attachments is universal. As both a significant pole owner as well as an attacher with over 5 million attachments nationwide, CenturyLink takes a balanced approach to ensure ease of access to poles without burdensome processes for pole owners. The FCC has worked for decades to improve processes for access, moving from a reasonableness standard for make-ready timelines to specific, expedited timeframes. Those FCC rules have provided the industry with a workable framework for pole attachment processes that strike a fair balance between expediency and cost on one side, and safety and reliability on the other. CenturyLink urges the New Hampshire Commission to review the FCC's rules and incorporate key provisions, as suggested in the redline proposal attached.

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

Respectfully Submitted,

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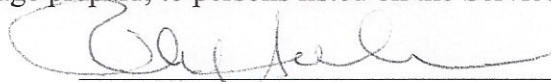


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Certificate of Service

I hereby certify that on this 2nd day of February 2018 a copy of the foregoing was either sent by electronic mail or first-class mail, postage prepaid, to persons listed on the Service List.



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