

CLOSE POLE RATE LOOPHOLES TO PROMOTE RURAL BROADBAND INVESTMENT AND DEPLOYMENT

What's the Problem with Poles?

Electric cooperatives and municipalities are charging broadband providers way too much for pole attachments, which adversely impacts broadband deployment, network upgrades, and competition in many rural areas.

- To deploy wireline broadband networks, cable operators and others must rent space on utility poles that have been deployed for the purpose of providing electric or telephone service.
- Under Section 224 of the Communications Act, the FCC must regulate these pole attachment rates (unless a State agrees to do so) and it has adopted rate formulas that the Supreme Court has found to be fully compensatory to pole owners.
- Poles owned by cooperative power companies and municipalities are excluded from the statute. When Congress first recognized the need to regulate pole attachment rates in 1978, it expected those entities would charge reasonable rates to attract deployment to their rural communities.
- Unfortunately, that prediction has proven wrong. As demonstrated in a groundbreaking paper by former FCC Chief Economist Michelle Connolly, rural broadband deployment has been hampered by the fact that pole attachment rates for municipal and cooperative electric companies are **2-3 times** the regulated rates charged by utilities covered by Section 224 and such rates can be changed arbitrarily by muni and co-op pole owners, further depressing investment incentives in areas where vast distances and fewer homes per mile make deployment and operation most challenging.

RUNAWAY POLE COSTS HARM BROADBAND DEPLOYMENT



REGULATED:

\$6.84 per pole

× 18 [⌈] poles per mile

\$123.12 per year

CO-OP OWNED:

\$15.39 per pole

× 18 [⌈] poles per mile

\$277.02 per year

MUNI-OWNED:

\$14.86 per pole

× 18 [⌈] poles per mile

\$267.48 per year

How Much More Do Unregulated Pole Attachments Cost?

- Dr. Connolly's paper demonstrates that cooperative and municipal utilities charge rates that are 125% and 117% higher, respectively, than the rates charged by pole owners covered by Section 224. On balance, these disparities divert tens of millions of dollars annually that could be invested in broadband but instead are spent overcompensating muni and co-op owners for pole rents.
- The national average annual rate for attachment to poles owned by regulated utilities is \$6.84 per pole. In comparison, cooperative utilities charge an average rate of \$15.39 per pole, and municipal utilities charge an average rate of \$14.86 per pole.
- Co-ops in Tennessee, Georgia and Virginia are even worse – charging broadband providers in those states three times the pole rate charged by regulated utilities, and in the case of several Virginia co-ops, for the same poles after they changed hands from the FCC regulated utility to the co-op. The effect of these excessive charges is to increase the costs that must be borne by existing broadband customers and reduce the likelihood that broadband providers will expand into unserved areas that rely on poles owned by these utilities.

What about competition?

- Increasingly, these unregulated pole owners are offering broadband service themselves, and are seeking federal broadband subsidies to do so, including subsidies from the USDA's Rural Utilities Service Telecom Infrastructure Fund, the newly-established ReConnect Fund, and the FCC's Connect America Fund.
- High pole attachment rates make it harder for other broadband providers to compete with cooperative and municipal utilities who overcharge their competitors for pole attachments while underbidding them for federal subsidies.
- As Dr. Connolly found, "in situations where [cooperative] or [municipal] utilities provide or intend to provide broadband services, the lack of regulation makes it possible for [cooperative and municipal utilities] to use pole attachment rates as an anti-competitive measure against other broadband service providers."

Recommendations to Spur Broadband Deployment.

- Congress should eliminate the unwarranted exemption from Section 224 pole attachment regulation for municipal and cooperative electric companies.
- Congress should require any utility accepting broadband funding to make its poles available using the federal pole attachment formula. This will ensure both a just and reasonable return to pole owners and make it more likely that other providers can provide service and higher speed broadband service to those who need it most.
- Similarly, any state distributing funds for broadband deployment should require any utility accepting broadband funding to make its poles available using the federal pole attachment formula.

