Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

COMMENTS OF INCOMPAS

INCOMPAS, by the undersigned, respectfully submits these reply comments in response to the Federal Communications Commission's ("Commission" or "FCC") *Fourth Further Notice of Proposed Rulemaking* ("*Fourth Further Notice*" or "FNPRM") seeking comment on ways to facilitate the processing of pole attachment applications and make-ready to enable faster broadband deployment.[1]

I. INTRODUCTION AND SUMMARY

INCOMPAS, the internet and competitive networks association, represents a broad and growing coalition of competitive communications providers that are actively investing in the infrastructure and technologies necessary to deliver next-generation broadband and communications services to consumers and businesses across urban, suburban, and rural communities nationwide. Our members are at the forefront of large-scale network builds, including projects that require access to thousands of poles often involving commercial negotiations with investor-owned utilities.

[1] *See 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, FCC 25-38 (rel. Jul. 25, 2025), ("*Fifth Report and Order*," "*Fourth Further Notice*," or "*FNPRM*").

For many of our members, aerial deployment on utility poles remains the most efficient and cost-effective means of building high-speed broadband networks. We are pleased that the Commission recognized the need for reform in this space through its adoption of make-ready timelines for large pole orders in the *Fifth Report and Order*. Our members strongly support that action and view it as a meaningful step toward reducing deployment barriers and improving predictability in the infrastructure access process. Furthermore, the Commission's decision to preserve key aspects of the *Fourth Wireline Infrastructure Order and Declaratory Ruling* will ensure the agency's efforts to create additional transparency, facilitate disputes, and increase information sharing between utilities and attachers will be implemented. When coordinated in a timely manner and without unreasonable fees, access to poles enables faster broadband buildout, fuels competition, and drives innovation in both wholesale and retail markets.

Despite our members' continued and substantial efforts to work collaboratively with utilities and with state and local broadband officials, they continue to encounter persistent obstacles, most notably, delays in the application and make-ready process and the imposition of unsubstantiated charges for engineering and survey work. These unnecessary costs and procedural bottlenecks threaten to delay or derail broadband deployment at a time when communities across the country are urgently awaiting better, faster, and more affordable service options.[2]

As the Commission continues to evaluate reforms to the pole attachment process, INCOMPAS urges the agency to ensure that rules reflect the operational realities and challenges our members face in the field prioritizing transparency, consistency, and efficiency across utility

[2] *See Ex Parte* Letter of Christopher L. Shipley, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1-3 (Aug. 20, 2024) ("INCOMPAS August 2024 *Ex Parte* Letter").

practices. Doing so will accelerate broadband deployment, reduce costs for consumers, and further the Commission's goal of closing the digital divide. To that end, INCOMPAS supports measures such as fixed make-ready timelines, a 240-day deployment window with flexibility for permitting delays, and a cost ceiling on final make-ready charges to improve predictability and reduce unjustified expenses. The association urges the Commission to refrain from imposing overly prescriptive rules such as a 120-day deployment deadline or mandated payment schedules that could inadvertently slow broadband buildout. INCOMPAS also calls for clear limits on utility onboarding timelines for contractors, greater transparency in application fees, and the inclusion of light poles within the Section 224 definition of "pole" to expand infrastructure access. These recommendations aim to reduce barriers, streamline deployment, and accelerate the delivery of next-generation broadband to communities nationwide.

II. A 240-DAY FIXED DEPLOYMENT TIMELINE OFFERS THE APPROPRIATE BALANCE BETWEEN PROVIDING ATTACHERS THE NECESSARY BUILD TIME AND ENSURING ACCOUNTABILITY FOR DELAYS

INCOMPAS appreciates the Commission's interest in ensuring that pole space is utilized efficiently and that infrastructure is deployed without undue delay. However, we caution against the adoption of a rigid, one-size-fits-all mandate, including the Commission's proposed 120-day deployment requirement following the completion of make-ready work.[3] While we understand the desire to avoid long-term reservations of pole space, such a strict deadline fails to account for the real-world complexities of deployment and risks undermining the very goal of accelerating broadband buildout.

In practice, it is not attachers who are causing delays, but rather the utilities themselves, which often move slowly in issuing invoices, completing make-ready work, and processing

[3] *See Fourth Further Notice* at para. 52.

applications. INCOMPAS members consistently report that utilities delay sending final invoices, even after make-ready work is completed, which prevents attachers from moving forward in a timely fashion. Our members are prepared and willing to deploy, but delays in the utility process make it difficult, and at times impossible, to meet arbitrarily short deadlines.

Moreover, this proposed 120-day limit is particularly problematic for our members operating in states where jurisdictional permitting requirements and utility coordination create additional layers of delay. A California-based member, for example, has emphasized that permitting from local or state agencies is often required before any construction work can begin, even after the make-ready process is complete. These permits can take weeks or even months to obtain, especially where there are interdependencies with related deployments in adjacent areas. In many cases, jurisdictions require that earlier or related work be completed before granting permits for the job at issue, or require that the utility issue its final attachment license before a provider can apply for a jurisdictional permit. These regulatory realities are entirely outside the attacher's control and must be accounted for in any deployment timeline.

A strict 120-day mandate that starts from the completion of make-ready work also conflicts with current industry practices. Attachment agreements in the marketplace typically allow longer deployment windows—270 days is common—and often calculate those timelines from the attacher's acceptance of the application quote, not from the end of make-ready work. Moreover, these agreements usually provide for one-time extensions if good cause can be shown. INCOMPAS believes these existing contract terms reflect a more practical and balanced approach to deployment timelines, and we urge the Commission to avoid imposing rules that would override negotiated, reasonable flexibility. It is also worth noting that mandating a hard 120-day window, with no consideration for these complexities, could lead to increased disputes

and legal uncertainty. Allowing pole owners to "reset the clock" or invalidate applications if deployment does not occur within an arbitrary timeframe will not speed deployment. Instead, it will create more friction and litigation, undermining the FCC's stated goals.

INCOMPAS therefore recommends that the Commission refrain from adopting a prescriptive, one-size-fits-all 120-day deployment deadline. If the Commission believes some limit is necessary, we propose a more reasonable 240-day window, which reflects the actual time required to coordinate construction, obtain jurisdictional permits, and manage the many moving pieces of a broadband deployment project.

The association also encourages the Commission to first address more impactful barriers to timely deployment, including utility delays in pole remediation and replacement,[4] and the lack of standardized and timely permitting processes across jurisdictions.[5] These challenges pose a far greater threat to timely deployment than any perceived delay by attachers. Only once these systemic issues are resolved should the Commission consider additional mandates aimed at the attacher community.

[4] *See, e.g.*, Comments of Crown Castle Fiber LLC, WC Docket No. 17-84, 27-28 (filed June 27, 2022) (suggesting an alternative cost allocation formula that would more equitably assign pole replacement costs between pole owners and new attachers based on the incremental costs caused by each party); *see also* Letter of Altice USA, Inc., *et al*., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84 (filed Apr. 17, 2023) (urging the Commission to provide "common-sense guidance and timelines" with respect to requiring investor-owned utilities and local exchange carrier pole owners to share in the cost of replacing poles).

[5] INCOMPAS welcomes the Commission's recently announced Notice of Inquiry looking into "state and local statutes, regulations, and legal requirements that prohibit or have the effect of prohibiting the provision of wireline telecommunications services in violation of section 253 of the Communications Act (Act)." *See Build America: Eliminating Barriers to Wireline Deployments*, Draft Notice of Inquiry, WC Docket No. 25-253, FCC-CIRC2509-01 (rel. Sep. 9, 2025).

Finally, we note that some utilities already provide *de facto* deployment deadlines through practices such as placing expiration dates on attachment licenses. These quasi-deadlines, along with the built-in flexibility of negotiated agreements, already serve the purpose of discouraging indefinite pole reservations while still allowing deployments to proceed in a realistic, coordinated fashion.

In sum, the imposition of a strict 120-day deployment requirement would not accelerate broadband deployment. Instead it would have the opposite effect, adding confusion, creating new sources of delay, and potentially deterring investment. INCOMPAS urges the Commission to reject a rigid deadline and instead adopt an approach that reflects the complexities of modern deployment, while preserving the flexibility attachers need to navigate regulatory and logistical realities on the ground.

III. IMPOSITION OF A COST CEILING ON FINAL MAKE-READY CHARGES WILL ENSURE PREDICTABLE COSTS FOR NEW ATTACHERS

INCOMPAS strongly supports the imposition of a cost ceiling on final make-ready charges, also known as "true-ups." The current framework, which allows utilities to issue final invoices that often exceed the original estimates by significant margins, creates substantial uncertainty for attachers.[6] This unpredictability makes it difficult for our members to plan and budget effectively, consuming unnecessary resources and ultimately hindering their ability to deploy broadband networks in a timely manner. Many of our members have experienced situations where final invoices for make-ready work are unreasonably and unpredictably higher than the estimate, making the total make-ready work cost 2-3x what the utility originally

[6] *See* Comments of Crown Castle Fiber LLC in Response to Third Further Notice of Proposed Rulemaking, WC Docket No. 17-84, 7 (Feb. 13, 2024) (arguing for the expanded allowance of self-help to prevent disputes around make-ready charges and "'true-ups' that differ dramatically from the make-ready estimate).

estimated. These discrepancies call into question the value of the initial estimate and undermine the purpose of the make-ready process.

In response to these issues, INCOMPAS recommends that the Commission impose a cost ceiling of 10–15% above the original estimate, with any charges beyond this threshold requiring clear, itemized justification. This would help ensure that utilities have an incentive to provide accurate and realistic estimates from the outset, reducing the likelihood of excessive cost overruns and disputes down the line. Furthermore, we urge the Commission to clarify that cost ceilings should apply equally to utility-prepared estimates and those prepared by attachers under the self-help process. This will create consistency across the make-ready process and prevent any ambiguity regarding cost expectations.

Additionally, INCOMPAS advocates for a time limit on the issuance of true-up invoices, ensuring that attachers are not left in limbo when it comes to budgeting and planning. In some cases, members have received true-up invoices months or years after the make-ready work has been completed, frustrating broadband providers' budgets, diverting scarce deployment dollars, and leading to additional disputes between attachers and utilities. A reasonable time limit for true-up bills, such as 30–60 days after the completion of make-ready work, would provide clarity and certainty for attachers and reduce unnecessary delays. Any mandate shorter than this would be inconsistent with real-world operational timelines and could create more opportunities for delay and dispute, rather than accelerating deployment.

By establishing a cost ceiling and clear timelines for true-up invoices, the Commission can help ensure that make-ready work remains transparent, predictable, and aligned with the broader goal of accelerating broadband deployment.

IV. FIXED PAYMENT TIMELINES ARE SUFFICIENTLY ADDRESSED IN ATTACHMENT AGREEMENTS, MAKING A REGULATORY SOLUTION UNNECESSARY

INCOMPAS appreciates the Commission's attention to improving the efficiency and predictability of the pole attachment process. However, our members urge caution when considering whether to impose new, fixed deadlines for attachers to remit payment following acceptance of a utility's make-ready estimate, particularly if such deadlines would impact the make-ready work schedule or risk delaying deployments. In most cases, this issue is already sufficiently addressed in existing attachment agreements, which typically include standard payment terms as part of the negotiated terms and conditions. These agreements generally reflect a balanced understanding of each party's responsibilities and timing needs. As such, a rigid federal mandate on payment timing may do more harm than good by disrupting established, functioning practices and introducing unintended consequences.

It is also important to recognize that artificially short payment deadlines could be used by utilities as another form of "soft barrier" to deployment. For example, if an attacher fails to meet a narrowly defined payment deadline due to an internal processing issue, utility-side delay, or otherwise it could be used as justification to waive the make-ready timeline or invalidate the application altogether, creating unnecessary and unjustified setbacks in the deployment process.

With respect to the idea of shifting from the current model of lump-sum payment upon acceptance to a progress-based or incremental payment schedule, INCOMPAS posits that, in practice, it would introduce significant additional complexity for both attachers and utilities. Tracking and reconciling multiple payments tied to various stages of make-ready work would not meaningfully improve deployment timelines and could slow down processing for all parties involved. At this stage of reform, where the goal should be simplification and streamlining, our

members do not believe that incremental payment systems should be a regulatory priority. Ultimately, the Commission should focus its efforts on policies that reduce ambiguity, promote transparency, and eliminate bottlenecks instead of imposing unnecessary payment mandates that could exacerbate rather than alleviate deployment challenges.

V. FEES FOR ATTACHMENT APPLICATIONS DISADVANTAGE COMPETITIVE PROVIDERS AND RAISE DEPLOYMENT COSTS

The Commission also seeks comment on the extent to which application fees that utilities impose upon prospective attachers before an application is even accepted for filing impacts deployments, particularly by smaller providers.[7] INCOMPAS is concerned about the significant variation in application fees imposed by utilities. In particular, larger, fixed up-front costs, like application fees, have a disproportionate impact on the deployment capacity and resources of smaller competitive providers.

While the Commission and courts have long held that the imposition of application fees are unnecessary because the rental rate on poles is properly compensatory,[8] our members report

[7] *See Fourth Further Notice* at para. 103.

[8] *See, e.g.*, *Texas Cable and Telecommunications Ass'n v. GTE Southwest, Inc*., Order, 14 F.C.C.R. 2975 ¶ 32 (1999); affirmed, 17 F.C.C.R. 6261 ¶ 11 (2002) (disallowing double recovery of make-ready costs by imposing such costs in the rent and requiring upfront payments); *Texas Cable & Telecommunications Ass'n v. Entergy Services*, Order, 14 F.C.C.R. 9138 ¶¶ 5, 14 (1999) (application fee not allowed); *Cable Television Ass'n of Ga. v. Ga. Power Co.*, Order, 18 FCC Rcd 16333, ¶ 19 (2003) (The Georgia Cable Association contested Georgia Power's $150 up-front fee for make-ready work. The Enforcement Bureau found the fee unreasonable and concluded that "Georgia Power first should incur the costs attendant to make-ready and then seek reimbursement for its actual make-ready costs."); s*ee In re Amend. of Comm'n's Rules & Pol'ys Governing Pole Attachments*, Order on Reconsideration 16 F.C.C. Rcd. 12103, ¶ 28 (2001) ("The carrying charges include the utility's administrative, maintenance, and depreciation expenses, a return on investment, and associated income taxes."); *see also Texas Cable & Telecommunications Ass'n*, 14 F.C.C.R., ¶ 5 ("A separate fee for recurring costs such as applications processing or periodic inspections is not justified, if the costs are included in a rate based upon fully allocated costs").

that many utilities have imposed excessive fees—some as high as $2,000 per application—well beyond what is necessary to recover the costs of application processing. Consider that a utility is going to charge an applicant additional costs, including to survey the poles, do preliminary engineering, and to determine what the make-ready estimate will be. Attachers pay these engineering costs regardless of whether they ultimately decide to accept the estimate and move forward with the deployment.[9] Such inflated application fees further undermine the financial feasibility of broadband deployment, particularly in underserved areas. INCOMPAS therefore urges the Commission to assert that application fees, if collected, should reflect only reasonable and justifiable costs and should not be used as a vehicle for increasing utility revenue.

VI. EXPANDING THE DEFINITION OF "POLE" UNDER SECTION 224 TO INCLUDE LIGHT POLES WILL FACILITATE NETWORK DEPLOYMENT

INCOMPAS supports the Commission's efforts to discern the definition of "pole" under Section 224 of the Communications Act includes light poles.[10] This would significantly improve access to infrastructure for competitive broadband providers, particularly in urban areas, where traditional utility poles are often scarce. Light poles are an ideal location for small cell and 5G

[9] *See, e.g.*, Comments of the American Cable Association, WC Docket No. 17-84, at 23-24 (filed June 16, 2017) (discussing unreasonable pole attachment application and engineering fees charged by utilities); Comments of Charter Communications, Inc., WC Docket No. 17-84, at 35-37 (filed June 15, 2017) (describing "excessive application requirements, including unnecessary engineering, that have marginal (if any) safety value—and which add significantly to the cost and schedule for deploying new attachments"); Comments of Crown Castle International Corp., WC Docket No. 17-84, at 11 n.21 (filed June 15, 2017) (noting that application fees are unlawful because "[t]he administrative costs of processing pole attachment applications are already recovered as part of the pole rental under the Commission's formula"); Letter from Thomas J. Navin, Counsel to Corning, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket 17-84, Attachment A, Ed Naef and Alex King, *Assessing the Impact of Removing Regulatory Barriers on Next Generation Wireless and Wireline Broadband Infrastructure Investment: Annex 1, Model Sensitivities*, at 7 (filed Feb. 26, 2018) (discussing how pole attachment application fees can "significantly raise the cost to deploy for a new network").

[10] *See Fourth Further Notice* at para. 66 *et seq*.

deployments due to their strategic placement in high-traffic areas and their lack of existing attachments, which makes them more suitable for new installations. As CTIA recently noted, clarifying that Section 224 applies to light poles "would further the priority of closing the digital divide and help ensure that all Americans have access to broadband connectivity."[11] Furthermore, INCOMPAS and its members agree that expanding the definition of poles under Section 224 to include utility-owned light poles is consistent with plain language of the statute and advances its purpose.[12]

By expanding the definition of "pole" to include light poles, the Commission can facilitate more network densification and capacity projects. These efforts are critical for meeting the growing demand for high-speed broadband services, especially in dense urban environments where traditional utility poles may be difficult to access or too congested to accommodate additional attachments. Furthermore, attachments to wooden street light poles can be made in the same manner as attachments on other wooden utility poles, making these easy locations to deploy consistent with NESC and other local utility and public safety guidelines.

Currently, some utilities restrict access to light poles or impose excessive fees that undermine the feasibility of using them in deployment projects. A broad interpretation of "pole"

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[11] *See* Letter of Scott Bergmann, Senior Vice President, Regulatory Affairs, CTIA, *et al*., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, 4 (June 4, 2024) (renewing CTIA's request for the Commission to grant its Petition for Declaratory Ruling clarifying certain aspects of the 2018 Wireline Infrastructure Order, including clarifying that the term "pole" in Section 224 includes investor-owned utility light poles). *See* CTIA Petition for Declaratory Ruling, WC Docket No. 17-84, WT Docket No. 17-79 (filed Sep. 6, 2019).

[12] *See* Comments of Crown Castle International Corp., WT Docket No. 19-250, WC Docket No. 17-84, and RM-11849, at 38-41 (filed Oct. 29, 2019) (submitting, consistent with CTIA's Petition for Declaratory Ruling, that (1) Section 224 makes no distinction between utility poles and utility-owned light poles, (2) the word "pole" is not defined by Section 224 or in FCC regulation, and (3) clarifying this matter would "remove barriers to deployment and promote a level playing field for utilities and third-party attachers").

under Section 224, which does not make a distinction between utility poles and utility-owned light poles, would ensure that providers have access to this infrastructure at reasonable rates, terms, and conditions, helping reduce these barriers and increasing the number of viable attachment points available for broadband deployment.

VII. A FIRM DEADLINE TO ONBOARD APPROVED CONTRACTORS WILL REDUCE DEPLOYMENT DELAYS

INCOMPAS supports the Commission's proposal to establish a firm deadline for utilities to complete the onboarding of approved contractors for make-ready work. As a threshold matter, there is no reason for a utility to "onboard" a contractor who will be performing make-ready construction work for the new attacher. In that case, the attacher will contract directly with the contractor. The contractor does not necessarily need to have a separate contract with the utility, and, therefore, does not need to be "onboarded" by the utility.[13] Delays in onboarding qualified contractors continue to undermine the effectiveness of the self-help remedy, one of the most important tools available to attachers when utilities fail to meet their obligations under the pole attachment rules. These delays serve as a real and persistent barrier to broadband deployment, often slowing projects by weeks or even months.

Our members believe that a 30-day timeline for onboarding is both reasonable and achievable, provided that the contractor in question is responsive and submits the required information in a timely manner. As one INCOMPAS member noted, the extended delays frequently encountered are not a result of the complexity of the onboarding process itself, but rather a byproduct of under-resourcing within the utilities' internal teams. In many cases, the workgroups responsible for maintaining approved contractor lists and vetting new applicants are

[13] *See Ex Parte* Letter of INCOMPAS, WC Docket No. 17-84, 4 (July 18, 2025).

simply not staffed or supported adequately to process these requests promptly. This is not a justification for indefinite delays especially when the same utilities are capable of rapidly deploying external crews during emergencies, such as storm restorations, without the same restrictions.

It is therefore appropriate for the Commission to set a clear and enforceable 30-day limit for the contractor onboarding process. This timeline respects the utility's need to verify qualifications and ensure safety compliance while also giving attachers the predictability and certainty needed to plan broadband deployments. Importantly, setting this deadline would not prevent utilities from performing due diligence; rather, it would incentivize them to prioritize this function appropriately within their internal workflows.

Delays in onboarding also create operational and strategic risks for attachers. If an approved contractor becomes unavailable due to scheduling conflicts or workload, the inability to quickly substitute a new qualified contractor can bring an entire project to a halt. This erodes the intended benefits of self-help and leaves attachers with no recourse, especially in areas where utilities are slow to perform their own make-ready work.

Finally, INCOMPAS notes that some utilities have used onboarding requirements as a form of *de facto* gatekeeping, effectively preventing attachers from utilizing self-help rights. Without a regulatory backstop like a firm onboarding deadline, these practices will continue to discourage timely deployment and limit competition in broadband infrastructure.

Accordingly, INCOMPAS urges the Commission to adopt a 30-day maximum onboarding period, ensuring that utilities fulfill their responsibilities in a timely manner and that attachers can proceed with deployment using qualified, vetted contractors without unnecessary procedural delay. This modest but meaningful reform would significantly improve the real-

world effectiveness of the self-help remedy and contribute to the Commission's broader goals of accelerating broadband deployment and promoting competitive access to critical infrastructure.

VIII. CONCLUSION

INCOMPAS strongly supports the Commission's efforts to streamline broadband deployment and reduce barriers to infrastructure development. However, we urge the Commission to consider the specific challenges faced by competitive providers when developing its rules. By imposing cost ceilings on make-ready charges, extending deployment timelines, and clarifying definitions such as that of "pole" under section 224, the Commission can promote a more sustainable and predictable environment for broadband providers. Additionally, timely contractor onboarding and the reduction of excessive fees will help accelerate deployment and improve the efficiency of broadband infrastructure rollouts. INCOMPAS appreciates the opportunity to provide these comments and looks forward to working with the Commission to ensure that its rules support the continued growth of competitive broadband networks and the expansion of broadband access to all Americans.

Respectfully submitted,

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