

**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	)	

REPLY COMMENTS OF INCOMPAS

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November 18, 2025

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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 competitive communications providers that are actively investing billions of dollars in infrastructure to deliver next-generation broadband and communications services across the country. For many of our members, aerial deployment on utility poles remains the most efficient and cost-effective means of building high-speed networks. The reforms proposed in the *Fourth Further Notice*, if properly implemented, will reduce deployment costs, improve predictability, and enable our members to extend broadband service to communities that urgently need better connectivity

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”).

options. The record developed through initial comments reveals several critical findings that demonstrate strong support for key reforms that will accelerate broadband deployment while addressing longstanding barriers that competitive providers face in accessing utility infrastructure.

First, there is overwhelming support for imposing a reasonable ceiling on make-ready cost overruns and establishing firm timelines for true-up invoicing. New attachers, including competitive providers, across the industry have documented how unpredictable cost overruns and delayed billing create budget chaos and divert capital from network expansion. Second, the record confirms broad consensus that Section 224 applies to utility-owned light poles, which represent necessary infrastructure for modern wireless deployments, particularly in urban areas where traditional utility poles are scarce. Third, numerous commenters have demonstrated the need for a firm deadline on utility onboarding of approved contractors to preserve the effectiveness of the self-help remedy.

In contrast to these areas, INCOMPAS joins other stakeholders in cautioning against adoption of a rigid 120-day deployment deadline following make-ready completion. The record demonstrates that deployment delays are more regularly caused by utility coordination issues and local permitting processes beyond attachers' control. Imposing penalties on attachers for delays they cannot prevent would be counterproductive and would chill broadband investment rather than accelerate deployment. If the Commission adopts a fixed timeline for deployment, it must ensure that such a requirement has appropriate safeguards, including "the ability to deviate from the timeline . . . to account for factors beyond the attacher's control."²

² See Comments of NCTA – The Internet & Television Association, WC Docket No. 17-84, 4 (filed Sept. 22, 2025) ("NCTA Comments").

Finally, the Commission should address the continuing problem of excessive and duplicative application and engineering fees, which constitute unlawful double recovery under the Commission's rate formula and impose particularly severe burdens on smaller competitive providers. The record contains compelling evidence that many utilities have raised these fees to unreasonable levels, beyond recovery of legitimate administrative costs, which ultimately discourages deployment.

These reforms will promote fair access to essential infrastructure, reduce deployment costs, and support the Commission's goal of expanding broadband to all communities. INCOMPAS urges the Commission to move forward with these important changes while avoiding unnecessarily rigid mandates that would undermine rather than advance broadband deployment objectives.

II. THE RECORD OVERWHELMINGLY SUPPORTS IMPOSING A COST CEILING ON MAKE-READY OVERRUNS AND FIRM TIMELINES FOR TRUE-UP INVOICING

The record in this proceeding provides compelling evidence supporting the Commission's proposal to impose a reasonable ceiling on make-ready cost overruns and to establish firm deadlines for submission of true-up invoices. As INCOMPAS explained in its initial comments, many of our members have experienced situations where final invoices exceed original estimates by factors of two or three times, creating substantial uncertainty that undermines deployment planning and diverts scarce capital from network expansion.³

³ See Comments of INCOMPAS, WC Docket No. 17-84, 6-7 (filed Sept. 22, 2025) ("INCOMPAS Comments").

A. Excessive and Unpredictable True-Up Invoices Are a Widespread Problem

The initial comments filed by competitive providers across the industry confirm that excessive make-ready cost overruns are not isolated incidents but rather a systemic problem affecting broadband deployment nationwide.⁴ For example, NCTA and Breezeline’s comments document numerous instances of utilities issuing inflated true-up invoices months or even years after make-ready work is completed, often with invoices exceeding initial estimates by two hundred to three hundred percent.⁵ These unpredictable charges disrupt budgeting, impact current and future deployments, and undermine the business case for broadband investment in areas that need service most urgently.

INCOMPAS members consistently report similar experiences. The current framework, which effectively gives utilities unlimited discretion to pass through cost overruns regardless of magnitude or timing, creates an untenable situation for competitive providers attempting to plan large-scale network deployments. When a provider cannot reliably predict make-ready costs

⁴ See, e.g., Comments of Breezeline, WC Docket No. 17-84, 6-8 (filed Sept. 22, 2025) (“Breezeline Comments”) (citing an example in which the company received a true-up bill two and a half years after the make-ready estimate that increased the cost of the deployment by an additional 70 percent over the cost of the original estimate); Comments of Crown Castle Fiber LLC in Response to the Fourth Further Notice of Proposed Rulemaking, WC Docket No. 17-84, 2-5 (filed Sept. 25, 2025) (“Crown Castle Comments”) (relaying that, “in many cases, Crown Castle receives true-ups with final costs that exceed the estimates by approximately 200-300%”); Comments of Extenet Systems, LLC, WC Docket No. 17-84, 6-7 (filed Sept. 22, 2025) (“Extenet Systems Comments”) (noting that the “most common reason” for cost overruns against initial estimates “is that costs of labor and materials has risen over extended time periods due to delayed make-ready work by pole owners”); Comments of America’s Communications Association on the Fourth Further Notice of Proposed Rulemaking, WC Docket No. 17-84, 4-5 (filed Sept. 25, 2025) (“ACA Connects Comments”) (describing the make-ready “bill shock” of ACA Connects members that receive invoices from pole owners that “far exceed the agreed-upon cost estimate”).

⁵ See NCTA’s Comments at 16-18 (reporting that a “NCTA member has experienced true ups by one utility that exceeded the estimated costs by 253% on average and by as much as 952% in one instance”); see also Breezeline Comments at 6.

based on utility estimates, the fundamental purpose of the estimating process is defeated.

Providers must either maintain excessive capital reserves to cover unknown future liabilities or face the prospect of project delays when unexpected bills arrive months after completion.

The practical impact of this uncertainty extends beyond individual projects. Competitive providers making strategic decisions about where to deploy networks must account for the risk of dramatic cost overruns. In some cases, this uncertainty tips the balance against deployment in areas where the business case is already marginal.⁶ Communities that would otherwise receive competitive broadband service are left without options because utilities refuse to provide reliable cost estimates and hold themselves accountable to those estimates.

B. Utility Opposition to Cost Ceilings Lacks Merit and Mischaracterizes the Commission's Proposals

Several utilities have opposed the Commission's cost ceiling proposal, arguing that make-ready costs are inherently unpredictable and that any limitation on cost recovery would violate Section 224 or constitute an unconstitutional taking.⁷ These arguments fundamentally mischaracterize both the Commission's proposal and the legal framework governing pole attachments. The Commission's proposal does not prohibit cost recovery or impose arbitrary limits unrelated to actual expenses. Rather, it requires utilities to provide accurate estimates and

⁶ See Crown Castle Comments at 4. Crown Castle argues that the cost of unpredictable and excessive true-ups force some attachers "to hold funds back in anticipation of significant new expenses. This means that some attachers may delay, or forego altogether, additional attachments or network buildouts until they know they have been assessed all of the costs of the make-ready work necessary for deployment."

⁷ See generally Joint Comments of Dominion Energy and Xcel Energy, WC Docket No. 17-84, 20-22 (filed Sept. 22, 2025) ("Dominion and Xcel Comments").

obtain attacher approval before exceeding a reasonable threshold.⁸ This approach aligns with basic principles of commercial fairness and transparency, because in virtually every other construction context, contractors provide estimates and obtain approval for significant cost increases before proceeding with additional work. There is no reason utilities performing make-ready work should be exempt from this fundamental expectation.

The suggestion that cost ceilings would violate Section 224's guarantee of just and reasonable cost recovery is also misplaced. Section 224 guarantees utilities the right to recover reasonable costs, not unlimited or unverified expenses.⁹ The Commission has consistently held that utilities must provide sufficient documentation to support their charges and that attachers are not obligated to subsidize inefficient or poorly managed utility operations.¹⁰ A cost ceiling that requires utilities to obtain approval before dramatically exceeding their own estimates does not prevent recovery of legitimate expenses. It simply requires utilities to justify significant overruns before continuing with work or passing costs on to attachers.

Utilities already have the tools necessary to comply with reasonable cost ceilings as they are required to provide detailed, itemized estimates based on projected material, labor, and

⁸ See *Fourth Further Notice* at para. 58 (“In practice, we believe that imposing any cost ceiling would require a utility to gain an attacher’s approval before the utility can incur make-ready costs beyond those contemplated in the estimate.”)

⁹ 47 U.S.C. § 224(d)(1).

¹⁰ 47 C.F.R. § 1.1411(d)(3) (“After the utility completes make-ready, if the final cost of the work differs from the estimate, it shall provide the new attacher with a detailed, itemized final invoice of the actual make-ready charges incurred, on a pole-by-pole basis where requested, to accommodate the new attacher’s attachment.”); see also Breezeline Comments at 7 (“We also note that unfortunately, despite the requirements under FCC rules that utilities provide estimates and invoices that are detailed and itemized, in our experience, utilities rarely provide such itemization.”)

related costs.¹¹ If these estimates are prepared with reasonable care and diligence, actual costs should fall within a reasonable range of the estimate. When costs threaten to exceed that range, utilities should follow the agency's proposal of seeking attacher approval for additional work through standard change order procedures common in the construction industry.

C. The Commission Should Adopt a Cost Ceiling of Ten Percent

INCOMPAS recommends that the Commission adopt a cost ceiling that limits final make-ready charges to ten percent above the original estimate absent attacher approval for additional costs. This threshold provides utilities with reasonable flexibility to account for variations in material costs, unforeseen field conditions, or other complications while preventing the dramatic overruns that currently plague the deployment process.¹²

INCOMPAS members and other stakeholders have indicated that a ceiling in this range reflects standard construction industry practices for cost variation.¹³ In commercial construction contexts, contractors routinely work within similar variance thresholds (typically five to ten percent), seeking formal approval through change orders when significant cost increases become necessary. Applying this established commercial practice to utility make-ready work will improve predictability and accountability without imposing unreasonable burdens on utilities.

¹¹ 47 C.F.R. § 1.1411(d).

¹² See ACA Connects Comments at 4-5 ("Our Members believe that requiring prior approval by attachers for aggregate costs that exceed the estimate by a *de minimis* percentage, e.g., 5-10 percent, is a reasonable measure that serves the interests of attachers and utilities. By basing the cost ceiling on a percentage rather than dollar amount, the Commission can ensure that it scales appropriately for builds of all sizes.")

¹³ See NCTA Comments at 18 (describing the process in commercial arms-length construction transactions in which parties may agree to allow minor changes to a scope of work without approval if those costs adjustments do not exceed 5-10% of the estimated costs).

Critically, the cost ceiling should apply equally to utility-prepared estimates and those prepared by attachers under the self-help process. This consistency will prevent ambiguity and ensure that all parties understand cost expectations regardless of who performs the make-ready work. It will also prevent utilities from using different standards for self-help versus utility-performed make-ready as a means of discouraging self-help.

D. True-Up Invoices Must Be Subject to Clear Time Limits and Timely Refunds Should Be Required When Self-Help Becomes Necessary

In addition to imposing a cost ceiling, the Commission must establish firm deadlines for utilities to submit true-up invoices following completion of make-ready work. As INCOMPAS noted in its initial comments, some members have received true-up invoices months or even years after make-ready completion.¹⁴ Crown Castle's comments reinforce the urgent need for time limits on true-up invoicing.¹⁵ These delayed billings create budget chaos, prevent project closeout, and divert funds that could be used for additional network deployment. INCOMPAS recommends that the Commission establish a deadline of thirty to sixty days following make-ready completion for utilities to submit final true-up invoices. A specified timeframe for final billing, supported by other attachers, provides utilities adequate opportunity to reconcile costs and compile necessary documentation while ensuring attachers can close out projects and plan future deployments with confidence.¹⁶

¹⁴ INCOMPAS Comments at 7.

¹⁵ See Crown Castle Comments at 4-5 (asserting that because it has received true-up invoices a year or more after a deployment project has been constructed and closed out, it has had to divert unbudgeted capital to past projects rather than future expansions).

¹⁶ See Breezeline Comments at 8 (supporting delivery of true-up invoices "within a specified period of time or the utility forfeits the right to collect on that invoice").

INCOMPAS also supports the proposal advanced by NCTA requiring utilities to refund make-ready payments within sixty days when a new attacher must undertake self-help.¹⁷ There is no basis for utilities to retain funds for make-ready work they never performed. When utilities fail to meet their obligations and attachers must proceed under self-help, any payments made for utility-performed make-ready should be promptly refunded. This refund requirement serves important equitable purposes. Attachers should not be required to pay twice for the same work, once to the utility that failed to perform and again to contractors performing the actual make-ready. Moreover, prompt refunds reduce the financial burden on attachers who already bear additional costs and delays when utilities fail to meet their obligations. A sixty-day refund deadline provides utilities adequate time to process refund requests while preventing indefinite retention of payments for work not performed.

III. THE COMMISSION SHOULD REJECT PROPOSALS FOR A RIGID 120-DAY DEPLOYMENT DEADLINE

While INCOMPAS supports reasonable measures to ensure efficient use of pole space, the record demonstrates that a rigid 120-day deployment deadline following make-ready completion, as suggested by the *Fourth Further Notice*, would be counterproductive and would undermine rather than advance broadband deployment objectives.¹⁸ As INCOMPAS explained

¹⁷ See NCTA Comments at 19.

¹⁸ See Crown Castle Comments at 5 (insisting that a deployment deadline is “not necessary and could lead to additional disputes” and adding that “120 days is insufficient, particularly for wireless attachments that have more complicated permitting and installation”); Breezeline Comments at 10 (reporting that deadlines for attachers to complete make-ready are generally negotiated for an included as a term in pole attachment agreements); Comments of WTA—Advocates for Rural Broadband, WC Docket No. 17-84, 2 (filed Sept. 22, 2025) (“WTA Comments”) (noting that segments of a broadband deployment project could be stalled by delays in necessary approvals for rights-of-way authorizations, authority for railroad crossings, or conclusion of environmental and/or historical preservation reviews).

in its initial comments, deployment delays are overwhelmingly caused by utility coordination issues and local permitting processes entirely outside attachers' control.¹⁹ Imposing penalties on attachers for delays they cannot prevent serves no useful purpose and risks chilling investment.

A. The Record Confirms That Attachers Do Not Regularly Cause Deployment Delays

The record developed in this proceeding makes clear that competitive providers are prepared and eager to deploy networks as quickly as possible.²⁰ Delays in deployment almost invariably result from factors beyond attachers' control. For example, utilities frequently delay issuing final attachment approvals and some local governments require utility-issued licenses before granting the local permit, yet utilities may withhold those licenses until after attachment is complete.²¹ This regulatory contradiction creates bottlenecks that cannot be resolved by imposing arbitrary deadlines on attachers.

INCOMPAS members report similar experiences across the country. In many jurisdictions, particularly in states with complex permitting regimes, local or state agency approvals are required before construction work can begin even after make-ready is complete. These permits can take weeks or months to obtain, especially where there are interdependencies with related deployments in adjacent areas. Many jurisdictions require that earlier or related work be completed before granting permits for subsequent projects, creating sequencing

¹⁹ See INCOMPAS Comments at 4.

²⁰ See Comments of USTelecom—The Broadband Association, WC Docket No. 17-84, 4 (filed Sept. 22, 2025) (“USTelecom Comments”) (reporting that the association’s members “have the incentive to promptly deploy their facilities when make-ready is complete and strive to do so quickly so that they can initiate service to a new customer or upgrade existing services”); see also Extenet Systems Comments at 3 (arguing that attachers of wireless facilities are incentivized to deploy as soon as possible after make-ready work is complete and that the examples proffered in the *Fourth Further Notice* are anecdotal).

²¹ See Crown Castle Comments at 5.

requirements that attachers cannot control. Moreover, utilities themselves often contribute to deployment delays by failing to provide timely make-ready completion notifications, delaying final invoice submission, or withholding necessary documentation for permit applications. When the parties responsible for delays are utilities and permitting authorities rather than attachers, imposing penalties on attachers serves no rational purpose.

B. A 120-Day Deadline Is Inconsistent With Industry Practice and Operational Reality

The proposed 120-day deployment deadline conflicts with standard industry practices reflected in negotiated attachment agreements. As INCOMPAS noted in its initial comments, attachment agreements typically allow deployment windows of 240 to 270 days calculated from the attacher's acceptance of the application quote, not from make-ready completion.²² These longer timelines reflect the operational realities of coordinating construction crews, obtaining permits, and managing the numerous dependencies involved in large-scale network deployments. Crown Castle's comments also highlight additional complications for wireless deployments, which involve more complex equipment installation and permitting requirements than simple wireline attachments.²³ The 120-day timeline proposed by utilities fails to account for these variations in deployment complexity and would create arbitrary barriers to wireless infrastructure deployment. Furthermore, existing attachment agreements commonly provide for extensions when good cause can be shown. This flexibility recognizes that unforeseen circumstances, including weather delays, supply chain disruptions, and permitting complications, may extend

²² See INCOMPAS Comments at 4-5.

²³ See Crown Castle Comments at 5.

deployment timelines through no fault of the attacher. A rigid federal mandate that eliminates this flexibility would override reasonable negotiated terms and create unnecessary disputes.

Several utilities already have penalties included in pole license agreements for failure to meet deployment deadlines, including permit cancellation, daily fines, and forfeiture of pole space, and utility stakeholders have submitted that the issue of deployment “is more easily addressed in pole license agreements.”²⁴ INCOMPAS asserts that utilities have not identified any legitimate harm from the time required for attachers to complete deployment. There is no harm to the utility or its customers if an attaching party takes slightly longer to complete attachment work, particularly when delays result from factors outside the attacher’s control. In contrast, when utilities fail to timely perform their obligations to enable attachment, there is direct and measurable harm to the attacher and to consumers awaiting broadband service.

The imposition of additional fines or permit cancellation for missing arbitrary deadlines would create significant financial risk that could deter investment, particularly in areas where deployment economics are already challenging. Competitive providers making investment decisions must weigh potential returns against risks. If providers face the prospect of losing their entire investment in permit fees, application charges, and make-ready costs due to permitting delays beyond their control, many will rationally choose not to invest.

C. Existing Mechanisms Already Address Concerns About Indefinite Pole Reservations

To the extent utilities have legitimate concerns about indefinite reservation of pole space, the Commission’s framework provides existing mechanisms that address these concerns.²⁵ As

²⁴ See Initial Comments in Response to the Fourth Further Notice of Proposed Rulemaking of Southern Company, *et al.*, WC Docket No. 17-84, 26 (filed Sept. 22, 2025).

²⁵ See WTA Comments at 3 (suggesting that rare instances of overlapping attachment requests can be handled in negotiations rather than by adopting a fixed deployment deadline).

INCOMPAS noted in its initial comments, many utilities place expiration dates on attachment licenses, providing a flexible tool to manage deployment timelines on a case-by-case basis.²⁶

Individual attachment license expirations can be extended where there is mutual agreement or for factors outside the attacher's control. These contractual provisions allow for reasonable accommodation of deployment realities while preventing indefinite pole reservations.

D. If the Commission Imposes a Deployment Deadline, It Should Be 240 Days With Flexibility

If the Commission determines that some deployment deadline is necessary despite the record evidence counseling against such mandates, INCOMPAS continues to urge adoption of a 240-day window rather than the proposed 120 days. This longer timeframe reflects the actual time required to coordinate construction, obtain jurisdictional permits, and manage the numerous dependencies involved in broadband deployment projects. Even those attachers that do not oppose the Commission's 120-day proposal have urged the Commission to adopt additional safeguards in the form of two elements. In its comments, NCTA suggests:

First, the trigger any such attachment timeline should be clearly defined as running from effective communications to the new attacher that all make-ready work is complete. Second, the attacher should be allowed to deviate from the timeline in limited circumstances when necessary to account for factors beyond the attacher's control.²⁷

This second element is critical. Any deadline should include clear exceptions for delays caused by utility actions, permitting authority delays, force majeure events, and other circumstances beyond the attacher's control. The remedy for non-compliance should be limited to permit cancellation, allowing the pole space to become available for other attachers, rather than punitive

²⁶ See INCOMPAS Comments at 6.

²⁷ NCTA Comments at 4.

finances or other penalties that would deter investment. Most importantly, the Commission should prioritize addressing the more significant barriers to timely deployment, including utility delays in pole remediation and replacement and the lack of standardized permitting processes across jurisdictions. These systemic issues pose far greater threats to deployment timelines than any perceived delays by attachers.

IV. THE COMMISSION MUST ADDRESS EXCESSIVE AND DUPLICATIVE APPLICATION AND ENGINEERING FEES

The record developed in this proceeding demonstrates that excessive and duplicative application and engineering fees have become a significant barrier to broadband deployment. As INCOMPAS noted in its initial comments, larger fixed upfront costs like application fees have a disproportionate impact on smaller competitive providers, undermining the financial feasibility of deployment particularly in underserved areas.²⁸

A. Application Fees Constitute Unlawful Double Recovery

The Commission and courts have consistently held that the annual rental rate formula under Section 224 already captures administrative and engineering costs associated with pole attachments.²⁹ The imposition of separate application fees for these same costs constitutes

²⁸ See INCOMPAS Comments at 9.

²⁹ See, e.g., *Texas Cable and Telecommunications Ass'n v. GTE Southwest, Inc.*, Order, 14 F.C.C.R. 2975 at para. 32 (1999); affirmed, 17 F.C.C.R. 6261 at para.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 at paras. 5, 14 (1999) (application fee not allowed); *Cable Television Ass'n of Ga. v. Ga. Power Co.*, Order, 18 FCC Rcd 16333, at para. 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."); see *In re Amend. of Comm'n's Rules & Pol'ys Governing Pole Attachments*, Order on Reconsideration 16 F.C.C. Rcd. 12103, at para. 28 (2001) ("The carrying charges include the utility's administrative, maintenance, and depreciation expenses, a return on investment, and associated

unlawful double recovery that violates the Commission's rate formula. As the Commission stated in *Texas Cable & Telecommunications Association v. Entergy Services*, application fees are not permitted if the costs are already included in rates based on fully allocated costs.³⁰

Despite this clear precedent, utilities continue to impose application fees that often range from several hundred to several thousand dollars per application. These fees are assessed before applications are even accepted for processing and typically lack transparency regarding what costs they purport to recover. The record contains numerous examples of application fees that appear designed to generate revenue rather than to recover legitimate administrative expenses.³¹ Crown Castle's comments document particularly egregious examples, including instances where utilities charge application fees of two thousand dollars per pole before the application has been accepted by the utility.³² Other commenters, including Breezeline and NCTA, have similarly documented how utilities use the application process to recover upfront costs from attachers for activities that primarily benefit the utility and that should be recovered proportionally through annual rental fees.³³

income taxes.”); *see also Texas Cable & Telecommunications Ass’n*, 14 F.C.C.R., at para. 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”).

³⁰ *Texas Cable & Telecommunications Ass’n v. Entergy Services*, Order, 14 F.C.C.R. 9138 at paras. 5, 14 (1999).

³¹ *See, e.g.*, Comments of Breezeline at 3 (reporting that a utility in West Virginia raised its application and processing fees by \$200 per pole “with little apparent justification”).

³² *See* Crown Castle Comments at 7-8.

³³ *See* Breezeline Comments at 9; NCTA Comments at 20.

B. Engineering Fee Practices Create Duplicative Costs and Lack Transparency

Beyond application fees, the record reveals serious problems with utility engineering fee practices. Crown Castle's experience is particularly instructive as utilities routinely require the company to submit pole loading analyses and other technical documentation, only to reject those submissions and charge attachers to re-perform the same engineering work.³⁴ This practice forces attachers to pay for the same engineering twice, first when preparing their initial submissions and again when utilities repeat the analysis.

The problem is compounded by utilities' refusal to share the engineering standards and loading catalogs necessary for attachers to prepare compliant analyses. Utilities cite proprietary concerns for withholding these standards, yet still demand that attachers submit engineering that meets those undisclosed standards. When attachers inevitably fail to meet requirements they cannot properly account for, utilities charge them for duplicative engineering. This practice not only increases costs but also deprives attachers of the ability to verify the validity of utility-imposed make-ready charges. If a utility claims that a pole must be replaced due to loading failures, the attacher cannot verify that conclusion without access to the same engineering standards and loading data the utility used. This information asymmetry gives utilities unchecked discretion to impose costly pole replacements that may not be necessary.

C. Application and Engineering Fees Must Be Limited and Transparent

INCOMPAS urges the Commission to take definitive action to rein in excessive application and engineering fees. First, the Commission should clarify that application fees are not permitted to the extent they recover costs already included in the annual rental rate formula. Any application fees that utilities do charge must be limited to reasonable costs directly

³⁴ See Crown Castle Comments at 9.

attributable to processing the specific application and must be supported by transparent documentation.

Second, the Commission should require utilities to accept attacher-submitted engineering analyses unless they can demonstrate with specificity that the submission fails to meet published standards. If utilities insist on performing their own engineering, they should bear the cost, particularly when attachers have already provided compliant analyses. The Commission must not allow utilities to impose duplicative engineering charges as a barrier to deployment.

Third, utilities must be required to share engineering standards, loading catalogs, and design criteria with attachers on reasonable terms. The public safety and reliability interests that utilities cite to justify engineering requirements are not advanced by keeping standards secret. Attachers can only comply with standards they can access, and transparency in engineering requirements will reduce disputes and improve the efficiency of the application process.

Finally, the Commission should recognize that engineering fee practices have become particularly burdensome in rural and underserved areas where deployment economics are already challenging. The imposition of arbitrary fees diverts capital from network expansion and disproportionately impacts smaller providers who lack the resources to absorb excessive charges across large numbers of applications.

V. THE COMMISSION SHOULD CLARIFY THAT SECTION 224 APPLIES TO UTILITY-OWNED LIGHT POLES

INCOMPAS strongly supports the Commission's clarification that Section 224 applies to utility-owned light poles. As we explained in our initial comments, light poles represent critical infrastructure for modern wireless deployments, particularly in urban areas where traditional

utility poles are scarce.³⁵ Denying attachers access to light poles creates significant barriers to network densification and limits the ability to meet growing demand for broadband capacity.

A. The Statutory Text Clearly Encompasses Light Poles

The language of Section 224 is expansive and unambiguous. Section 224(f) requires utilities to provide nondiscriminatory access to “any pole, duct, conduit, or right-of-way” owned or controlled by the utility.³⁶ Based on the statutory text, the Commission must determine the use of the term “any pole” plainly encompasses light poles, which are poles owned or controlled by utilities and located in public rights-of-way.

As Crown Castle notes in its comments, the word “any” has an expansive meaning that must be interpreted to include all poles unless Congress explicitly limits scope, particularly since no such limitation exists in Section 224.³⁷ The statute does not distinguish between poles based on their primary purpose, accounting classification, or structural characteristics. A light pole is a pole, and Section 224 seemingly applies. The Eleventh Circuit's decision in *Southern Company v. FCC* supports this interpretation.³⁸ In that case, the court emphasized the broad scope of Section 224's coverage and rejected utility attempts to narrow its application based on technical distinctions unsupported by statutory text. The same principle applies to light poles. Utilities

³⁵ See INCOMPAS Comments at 10-11.

³⁶ 47 U.S.C. § 224(f).

³⁷ See Crown Castle Comments at 10 (insisting that the term “pole” must be construed broadly to encompass light poles since the statutory term is undefined and because “any interpretation and definition of that term should reflect both the ordinary meaning and the practical realities of modern telecommunications infrastructure”).

³⁸ See *Southern Co. v. FCC*, 293 F.3d 1338, 1349-50 (11th Cir. 2002) (citing *Lyes v. City of Riviera Beach*, 166 F.3d 1332, 1337 (11th Cir. 1999) (“[r]ead naturally, the word ‘any’ has an expansive meaning . . . [when] Congress [does] not add any language limiting the breadth of that word, . . . ‘any’ means ‘all.’”).

may not create categorical exclusions based on pole type when the statute contains no such limitation.

B. Light Poles Are Necessary Infrastructure for Modern Network Deployment

The practical importance of light pole access cannot be overstated. In many urban areas, electric distribution infrastructure is underground and traditional utility poles are absent. Standalone light poles are often the only vertical assets available for wireless infrastructure deployment, including small cell antennas and backhaul equipment. Excluding light poles from Section 224 coverage would create insurmountable barriers to deployment in precisely the areas where broadband demand is highest.

As INCOMPAS noted in our initial comments, light poles are ideal locations for small cell and 5G deployments due to their strategic placement in high-traffic areas and their lack of existing attachments.³⁹ Unlike traditional utility poles that may be congested with multiple existing attachments, light poles typically offer clean mounting opportunities that simplify installation and reduce costs. Moreover, attachments to wooden street light poles can be accomplished using the same methods and standards applicable to other wooden utility poles, making these locations straightforward to deploy consistent with National Electrical Safety Code requirements and local guidelines.

The record demonstrates that competitive providers are eager to utilize light poles for network deployment and that doing so would significantly accelerate broadband expansion, particularly in urban areas.⁴⁰ Crown Castle and other wireless providers have successfully

³⁹ See INCOMPAS Comments at 10-11.

⁴⁰ See Extenet Systems Comments at 11; Comments of CTIA, WC Docket No. 17-84, 7 (filed Sept. 22, 2025) (“CTIA Comments”) (contending that “[l]ight poles are often a locality’s preferred location for wireless facilities and can be an optimal way to utilize existing

deployed attachments on light poles in numerous jurisdictions, often in collaboration with utilities and municipalities. These deployments prove that light pole attachments are feasible, safe, and compatible with the infrastructure's primary purpose.

Several utilities have argued that light poles should be excluded from Section 224 based on alleged differences in design, purpose, and accounting treatment. These arguments mischaracterize both the statute and the operational realities of light pole attachments. The claim that light poles differ from utility poles in accounting treatment is legally irrelevant. Section 224 does not condition access on accounting classifications. The statute applies to poles owned or controlled by utilities, regardless of which Federal Energy Regulatory Commission account is used to book those assets. If accounting treatment determined Section 224 applicability, utilities could evade the statute simply by reclassifying assets, an absurd result inconsistent with the statute's purpose. Similarly, arguments based on the primary purpose of light poles miss the mark. Section 224 does not limit coverage to poles whose primary purpose is carrying electric distribution lines. The statute applies to "any pole" owned or controlled by the utility. Many traditional utility poles serve multiple purposes, including street lighting, traffic signals, and other municipal functions. There is no basis for treating standalone light poles differently simply because their primary purpose is illumination rather than electric distribution.

Further, the suggestion that regulating light pole attachments would be unworkable is contradicted by the record. As noted above, competitive providers have successfully deployed on light poles in numerous locations. These deployments demonstrate that attachments can be accomplished safely, reliably, and in a manner that preserves the aesthetic character of

infrastructure" and that "wireless providers continue to need access to light poles for wireless attachments").

streetscapes. The Commission's clarification would not mandate access to every light pole but would ensure that utilities cannot deny access arbitrarily or impose unreasonable conditions unsupported by legitimate safety or reliability concerns.

C. Clarification Will Promote Regulatory Consistency and Accelerate Deployment

The Commission's clarification that Section 224 applies to light poles will create much-needed regulatory consistency.⁴¹ Currently, some utilities permit light pole attachments while others categorically prohibit them, leading to fragmented deployment patterns and increased costs. Clarifying that all utility-owned light poles are subject to Section 224 will harmonize practices nationwide and ensure that competitive providers can plan deployments with confidence. This clarification aligns with the Commission's broader recognition of the importance of vertical assets in public rights-of-way for wireless deployment. As networks densify and shift toward small cell architecture, access to light poles becomes increasingly critical. The Commission should not allow outdated interpretations of Section 224 to create artificial barriers to infrastructure access when the statute's plain language provides for broad coverage.

Importantly, the Commission's clarification will not interfere with legitimate utility concerns about safety, reliability, or capacity. Section 224 already provides utilities with the right to deny access when specific, documented safety or capacity concerns exist.⁴² The clarification simply prevents utilities from denying access based solely on pole type without regard to actual characteristics or suitability for attachment.

⁴¹ See CTIA Comments at 3 (arguing that clarifying the meaning of the term “pole” consistent with its ordinary meaning “will promote the cardinal purpose of Section 224—to enable access to all poles on a non-discriminatory basis”).

⁴² 47 U.S.C. § 224(f)(2).

VI. A FIRM DEADLINE FOR UTILITY ONBOARDING OF APPROVED CONTRACTORS IS ESSENTIAL

INCOMPAS strongly supports adoption of a firm deadline for utility onboarding of approved contractors. As we explained in our initial comments, delays in contractor onboarding 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.⁴³ The record demonstrates that utilities onboarding requirements are delaying or obstructing deployment, and effectively nullify attachers' self-help rights.⁴⁴

A. Onboarding Delays Are a Widespread and Serious Problem

The record compiled in this proceeding confirms that contractor onboarding delays are not isolated incidents but rather a systemic problem affecting deployment nationwide. Crown Castle's comments document how utilities require extensive onboarding processes for contractors who are performing work on behalf of attachers, not the utility. These processes often include negotiating separate agreements, integrating contractors into utility systems, and conducting redundant training, all of which can take many months to complete.⁴⁵ Other commenters, including NCTA, Breezeline, and ACA Connects report similar experiences. NCTA notes that some utilities have refused to accept contractor requests altogether, while others impose onboarding processes stretching up to sixteen months.⁴⁶ Breezeline reports

⁴³ See INCOMPAS Comments at 12.

⁴⁴ See, e.g., Extenet Systems Comments at 8 (urging the Commission to ensure that contractors who meet Section 1.1412(c) requirements are not subject to months- or years-long onboarding processes); see also ACA Connects Comments at 7-8.

⁴⁵ See Crown Castle Comments at 15.

⁴⁶ See NCTA Comments at 11 (pointing to NCTA members experiences in regulated states in which utilities are not accepting requests to add contractors);

waiting at least eleven months for a utility to complete contractor onboarding.⁴⁷ These extraordinary delays defeat the purpose of the self-help remedy, which was designed to provide attachers with a timely alternative when utilities fail to perform make-ready work.

The impact of these delays extends beyond individual projects. When attachers cannot rely on self-help because utilities obstruct contractor onboarding, they have no recourse when utilities fail to meet make-ready timelines. This fundamentally undermines the balance the Commission established in its pole attachment rules, leaving attachers entirely dependent on utility performance with no effective remedy for utility failures.

B. A Thirty-Day Onboarding Deadline Is Reasonable and Achievable

INCOMPAS recommends that the Commission establish a thirty-day maximum timeline for utility onboarding of approved contractors. This timeframe is both reasonable and achievable, as demonstrated by utilities that already complete onboarding within this period. NCTA notes in its comments that its members have worked with utilities that onboard new contractors for communications space work in thirty days, proving that extended timelines are not necessary.⁴⁸

The thirty-day timeline respects utilities' legitimate need to verify contractor qualifications and ensure safety compliance while providing attachers with the predictability necessary to plan deployments. It is important to recognize that contractors seeking to perform make-ready work for attachers are already qualified, licensed professionals with appropriate insurance and safety training. The onboarding process should verify these existing

⁴⁷ See Breezeline Comments at 9.

⁴⁸ See NCTA Comments at 11.

qualifications, not create elaborate barriers to deployment. Moreover, as INCOMPAS noted in our initial comments, extended onboarding delays typically result from under-resourcing within utilities' internal teams rather than from any inherent complexity in the onboarding process.⁴⁹ Utilities that are capable of rapidly deploying external crews during storm restoration can certainly process contractor onboarding requests within thirty days when properly motivated. A regulatory deadline will ensure that utilities prioritize this function appropriately.

Several utilities have argued that onboarding timelines cannot be standardized due to complexity of safety protocols and the need to protect electric infrastructure.⁵⁰ Some utilities claim that onboarding contractors for work above the communications space may require up to eighteen months. These assertions lack credibility and are contradicted by the experience of utilities that complete onboarding quickly. As Crown Castle observes, there is no basis for claims that utilities cannot timely onboard qualified contractors, noting that utilities retain authority to evaluate contractor qualifications, enforce safety standards and monitor work.⁵¹ The situation is particularly untenable for contractors who will only be performing make-ready construction work on outside plant facilities. These contractors do not need access to utilities' computer engineering systems and do not require the same level of integration as contractors working directly for the utility. The suggestion that such contractors require many months of onboarding is simply not credible.

⁴⁹ See INCOMPAS Comments at 12.

⁵⁰ See Comments of the Coalition of Concerned Utilities on Fourth Further Notice of Proposed Rulemaking, WC Docket No. 17-84, 33 (filed Sept. 22, 2025) (asserting that creating a standardized timeline for onboarding contractors would shortchange or compromise the process).

⁵¹ See Crown Castle Comments at 16.

C. The Deadline Must Apply Even for Work in Electric Space

Some utilities have suggested that different onboarding timelines should apply depending on whether contractors will work in the electric space or only in the communications space.⁵² INCOMPAS opposes any such distinction and recommends that the thirty-day deadline should apply uniformly regardless of where on the pole the contractor will perform work. The Commission's self-help remedy is most important precisely when make-ready work involves the electric space, as this work typically takes longer and utilities are more likely to delay performance. If utilities could avoid the onboarding deadline by claiming that work involves the electric space, the deadline would be rendered meaningless in the cases where it is most needed. Moreover, as noted above, contractors performing make-ready work in electric space are already qualified, licensed professionals with extensive safety training and appropriate insurance. The notion that verifying these existing qualifications requires many months is not supportable. Utilities must be held to reasonable timelines for onboarding regardless of where contractors will perform work.

VII. CONCLUSION

The record in this proceeding demonstrates strong support for reforms that will accelerate broadband deployment by addressing longstanding barriers in the pole attachment process. INCOMPAS urges the Commission to adopt the following measures supported by the weight of evidence in the record: (1) the imposition of a cost ceiling of ten percent on make-ready cost overruns, establishment of firm deadlines of thirty to sixty days for utilities to submit true-up invoices following make-ready completion, and a requirement that utilities refund make-ready payments within sixty days when attachers must proceed under self-help; (2) prohibit excessive

⁵² See, e.g., Dominion Excel Comments at 26.

and duplicative application and engineering fees; (3) clarify that Section 224 applies to utility-owned light poles as the statutory text plainly encompasses light poles; and (4) establish a firm thirty-day deadline for utility onboarding of approved contractors.

Furthermore, the Commission should reject proposals for a rigid 120-day deployment deadline following make-ready completion. If the Commission determines some deadline is necessary, it should be at least 240 days with clear exceptions for circumstances beyond attachers' control.

These reforms will promote fair access to essential infrastructure, reduce deployment costs, and support the Commission's goal of expanding broadband to all communities. INCOMPAS appreciates the Commission's continued commitment to improving the pole attachment process and looks forward to working with the agency to implement these important changes.

Respectfully submitted,

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November 18, 2025