Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Build America: Eliminating Barriers to Wireline Deployments	)	WC Docket No. 25-253
	)	
	)	
	)	

REPLY COMMENTS OF
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

The National Rural Electric Cooperative Association ("NRECA") submits these reply comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding ("Notice" or "NPRM")[1] to address comments regarding private utility easements and the need to remove abandoned facilities.

I. BACKGROUND.

NRECA is the national service organization for nearly 900 not-for-profit rural electric cooperatives that provide electric power to 56% of the nation's landmass, including approximately 42 million people in 48 states, or approximately 13 percent of U.S. electric customers. Rural electric cooperatives serve 88% of U.S. counties, including 92% of the 353 counties that experience persistent poverty. Rural electric cooperatives were formed to provide safe, reliable electric service to their member-owners at the lowest reasonable cost. All of NRECA's electric distribution cooperatives are small business entities as defined by the U.S. Small Business Administration. They are private, not-for-profit entities owned by the members to

[1] *Build America: Eliminating Barries to Wireline Deployments,* WC Docket No. 25-253, Notice of Proposed Rulemaking, FCC 26-40 (June 26, 2026) ("NPRM").

whom they deliver electricity, democratically governed, and operate according to the seven Cooperative Principles.[2]

In addition to providing safe, reliable electric service to their member-owners at the lowest reasonable cost, the nation's rural electric cooperatives are committed to promoting the deployment of advanced telecommunications capabilities in their communities. Today, more than 200 electric cooperatives engage in broadband deployment efforts, bringing connectivity to areas that other service providers have deemed too costly to serve. Electric cooperatives are playing a crucial role in broadband infrastructure development to serve rural unserved and underserved locations themselves or through partnerships with affiliated or unaffiliated ISPs.

NRECA appreciates the opportunity to offer reply comments in this proceeding, which address the competitive benefits of removing abandoned attachments and the misleading and self-serving cable industry comments about utility broadband easements.

II. CABLE INDUSTRY ARGUMENTS REGARDING STATE UTILITY EASEMENT LEGISLATION ARE ANTICOMPETITIVE AND BEYOND THE SCOPE OF THIS PROCEEDING.

Following a Notice of Inquiry proceeding in this docket, and based on the record developed in that proceeding, the Commission's Notice proposes rules designed to speed up processing times and lower fees associated with state and local processing of requests by telecommunications providers to deploy wireline infrastructure:

> 4. Accordingly, in this Notice of Proposed Rulemaking, we propose and seek comment on actions that the Commission could take that would limit processing times and fees for state and local authorizations that constrain deployment of wireline infrastructure in violation of Section 253 of the Act. Specifically, we seek comment on codifying rules that would: (1) establish a rebuttable presumption that state and local governments have effectively

[2] The seven Cooperative Principles are: Voluntary and Open Membership; Democratic Member Control; Members' Economic Participation; Autonomy and Independence; Education, Training, and Information; Cooperation Among Cooperatives; and Concern for Community.

> prohibited the provision of wireline telecommunications services if they fail to process all authorizations for use of public rights-of-way to provide wireline telecommunications services or to deploy wireline telecommunications infrastructure within 120 days; (2) limit the fees that state and local governments may charge for a wireline telecommunications authorization to a reasonable approximation of the government's actual, direct costs of managing the rights-of-way with respect to that authorization and establish safe harbor fee levels that presumptively comport with that standard; (3) require that the value of in-kind compensation demanded by state and local governments count toward any safe harbor fee levels adopted by the Commission; and (4) prohibit state and local governments from imposing additional requirements on wireline telecommunications infrastructure deployments on the grounds that the infrastructure may be used to provide other services. We also seek comment on the Commission's authority to enact the proposals set forth in this *Notice of Proposed Rulemaking.*[3]

The Notice asks whether the 120-day deadline should apply to requests to install facilities not only in the public right-of-way, but also outside the public right-of-way,[4] and asks whether the Commission should "evaluate whether there are state and local laws that prohibit or effectively prohibit providers from requesting and obtaining access to private utility easements within the meaning of Section 253."[5]

This inquiry regarding private utility easements pertains only to whether the proposed 120-day deadline should be extended to requests outside the public right-of-way, but NCTA – The Internet & Television Association ("NCTA") seizes this opportunity to submit a bold request that the Commission preempt some unidentified number of unidentified state statutes enacted to address the use of broadband in utility easements.[6]

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3 NPRM, ¶ 4.

4 *Id.*, ¶ 23 asking, "we seek comment on whether the Commission can and should apply its proposed 120-day period to applications for state and local authorizations to place infrastructure needed to provide wireline telecommunications services outside the public right-of way."

5 *Id*.

6 NCTA Comments at 8-11.

This broad request to preempt unspecified state utility easement legislation is beyond the scope of the rules proposed in the Notice, including the 120-day rule that prompted the Commission's inquiry. It is also bad public policy.

The goal of State legislation regarding the use of utility easements for broadband purposes was to promote broadband services, particularly in areas unserved by existing broadband providers – including the cable industry. In each State, the goal of promoting broadband in rural areas was weighed by state legislators against the need to protect the rights of private property owners in the State. The cable television industry, represented by NCTA, was provided the opportunity to engage in the legislative process in each State, just like all other interested parties. Following this legislative process, legislators in each State developed their own conclusions about how best to promote broadband in unserved rural areas while protecting the rights of the private property owners who were granting the easements.

NCTA claims without support or analysis that "[a]dding third-party broadband facilities where electricity infrastructure already exists generally does not impose any incremental burden on the underlying property and in many cases increases the value of the underlying property."[7] But the cable industry had the opportunity to make such claims in each State, and each State rendered its own conclusion about the burden on private property owners based on that State's own unique set of property laws and history. The Commission should not second-guess these different policy judgments affecting a host of distinct State property laws.

It is ironic that the cable industry is fighting to eliminate favorable utility easement provisions for its potential competitors when the cable industry itself has benefited for decades from such a favorable utility easement provision. The Cable Communications Policy Act of 1984

[7] NCTA NOI Comments at 18 (Nov. 18, 2025).

specifies that "[a]ny franchise shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which is within the area to be served by the cable system and which have been dedicated for compatible uses."[8] This favorable easement provision has been relied upon for decades by the cable industry as an excuse not to obtain private property easements. NCTA now seeks to deny such favorable treatment to potential competitors, even in rural unserved areas the cable industry has heretofore ignored.

Granting NCTA's request would have the effect of eliminating certain electric cooperative competitors, which seems to be the cable industry's objective. Notably, NCTA suggests the Commission should align itself with NTIA and its guidance concerning Broadband Equity Access and Deployment (BEAD) Program funding.[9] Such guidance includes the unprecedented NTIA requirement that electric cooperatives seeking to obtain BEAD funding, and not subject to pole regulation by a state or the Tennessee Valley Authority (TVA), must agree to follow FCC pole attachment regulations across their electric service territories or risk losing BEAD funding, despite the complexity of those rules and that Congress has statutorily exempted cooperatives from FCC pole attachment jurisdiction.[10] NTIA's guidance to date has had the effect of causing one-third of the electric cooperatives receiving BEAD funding to opt out of the program, and others considering following suit. Such a result, of course, eliminates competition from electric cooperatives, much to the benefit of the cable industry. NCTA's proposal in this proceeding to

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8 47 U.S.C. §541(a)(2).

9 NCTA Comments at 6.

10 General Terms and Conditions for the NTIA Broadband Equity, Access & Deployment Program (BEAD) Program Funds, Section 13.D.1.e, available at: General Terms and Conditions for the NTIA BEAD Program Funds - Nov 2025 (last visited 10-29-2026). The federal Pole Attachment Act exempts electric cooperatives from FCC pole attachment jurisdiction by specifying that cooperatives are not the utilities whose poles are subject to the Act. 47 U.S.C. §224(a)(1)("The term 'utility' … does not include … any person who is cooperatively organized ….").

preempt State utility easement legislation would eliminate even more electric cooperative competitors to the cable industry.

III. THE COMMISSION SHOULD ISSUE GUIDANCE TO GOVERN THE REMOVAL OF ABANDONED FACILITIES.

The Notice seeks comment "on the extent to which unused wireline telecommunications facilities remain buried or installed in public rights-of-way and whether there are steps the Commission could take under Section 253 or any other authority to incentivize providers to remove such facilities as they upgrade their networks and complete additional deployments."[11]

In response, the Competitive Enterprise Institute claims simply that such abandoned facilities are "not a barrier to deployment."[12] INCOMPAS believes that removal of abandoned facilities is part of right-of-way management, and suggests a solution requiring local governments to allow the provider to demonstrate the facilities are still needed before requiring them to be removed.[13] The National Association of Towns and Townships identifies certain problems caused by abandoned facilities, welcomes an FCC inquiry into the problem, and asks the Commission to develop a workable definition of "abandonment" to assist the parties in identifying which facilities should be removed.[14]

NRECA similarly welcomes such a Commission inquiry into the problem of abandoned attachments, and appreciates the acknowledgment by INCOMPAS that removing abandoned facilities can be appropriate.

Abandoned facilities *are*, in fact, a barrier to new broadband deployments. Utility poles nationwide have become far more congested than ever before, as attachers repeatedly overlash and

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11 NPRM, ¶ 73.
12 Competitive Enterprise Institute Comments at 33.
13 INCOMPAS Comments at 26
14 National Association of Towns and Townships Comments at 31.

expand their existing facilities and as new entities gain access. But the structural load and congestion on these poles has increased unnecessarily because existing attachers refuse to remove attachments they no longer use. When a new attacher comes along, the increased load and congestion caused by these abandoned existing attachments can often prevent them from installing new facilities without a pole replacement.

Removing abandoned attachments would create additional space and load capacity for new attachers. Such additional capacity could eliminate a new attacher's expense of replacing the pole with a taller and stronger pole. It would also spare the utility pole owner the considerable time, effort and inconvenience of diverting scarce utility resources from other important tasks to replace the pole.

Decades of continual, repeated overlashing of existing communications wires with replacement communications wires has created thick bundles of cables with large diameters that dramatically increase the wind and ice load on poles to a point where no more loading capacity is available. Although it is convenient for existing communications attachers to continually overlash obsolete fiber and coaxial cable with new fiber having a greater capacity, such obsolete facilities can and should be removed from poles in order to alleviate this unnecessary ice and wind load.

Unused copper wiring and unused coaxial cable are two other examples of attached facilities which unnecessarily occupy pole space and create unnecessary pole load to the detriment of new, competitive attachers. Telephone and cable companies can and should be removing such unused copper wiring and coaxial cable, respectively, as they transition to fiber optic cables.[15]

NRECA therefore supports the Commission's inquiry into this anticompetitive practice and welcomes guidance from the Commission to address abandoned attachments.

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[15] Such a rule would also alleviate illegal and dangerous copper theft activity on poles containing energized electric facilities.

Respectfully submitted,

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