



POLE ATTACHMENT PRINCIPLES TO EXPEDITE BROADBAND DEPLOYMENT TO ANCHOR INSTITUTIONS AND THEIR COMMUNITIES

June 28, 2021

The policies governing access to utility poles can have a significant impact on the pace of broadband deployment to unserved and underserved markets. Providing a consistent framework, while recognizing the variety of circumstances that affect local pole attachment costs, can help to streamline the pole attachment process and expedite broadband deployment to anchor institutions and their surrounding communities. The SHLB Coalition urges policy-makers and pole owners to incorporate the following principles into their pole attachment policies.

1. All Pole Owners Should Be Subject to Comparable Rules Governing Pole Access.

- All pole owners should be required to offer reasonable rates, terms and conditions for pole access, with the goal of parity between the rules governing investor-owned utilities (IOUs) and those applicable to other pole owners, including cooperatives and municipalities.
- Although the FCC regulates IOUs, many utility poles are owned and operated by other entities, including cooperatives and municipalities, not currently regulated by the FCC.

2. Electric and Telephone Easements and Public Rights of Way Should Be Made Available for Broadband.

- In jurisdictions where easements and public rights of way for electric or telephone infrastructure are limited to electric and/or telephone wires, they should be expanded to encompass broadband and communications facilities as well.

3. Rates, Terms and Conditions for Pole Access Should Be Just, Reasonable, Predictable, and Prompt.

- State and local governments should use their authority over access to poles to apply the FCC's rules regarding pole access and make-ready for all pole owners -- including IOUs, municipal utilities and cooperatives. FCC rules are well-developed, have received extensive consideration by an expert agency, and have been the subject of input from all stakeholders. This includes "self-help" remedies and "one-touch make-ready" options that allow attachers to proceed promptly and safely without unnecessary delays. State and local governments should be incentivized to implement these FCC rules and policies.
- Timelines and application procedures for accessing poles, including for the completion of make-ready work, should be predictable and prompt and should provide some flexibility. Denials of access must be specific and reasonably based upon safety, reliability, engineering, or capacity considerations.

- If a pole owner requires a written agreement to attach to poles, it should be required to negotiate such agreements in good faith, including updating those agreements to incorporate reforms to pole attachment rules that occur during the contract term.

4. Pole Attachment Rates, Terms and Conditions Should be Non-discriminatory and Rates Should be Cost-based.

- Federal, state and local regulators should ensure that pole owners do not use their ownership of key facilities to impede broadband competition.
- In general, pole owners should be required to extend comparable rates, terms and conditions of access to everyone—including those rates, terms and conditions that are provided to their own affiliates, their business partners, and for the purpose of deploying their own networks.
- In general, pole attachment rates should reflect actual costs – non-recurring charges should reflect the actual immediate costs of make-ready work, and recurring rates should reflect a portion of the actual long-term costs of pole installation, maintenance, ownership and replacement.

5. To support broadband deployment, federal, state and local infrastructure funding should be made available to help defray pole make-ready and pole replacement costs.

- Funding should be made available to pole owners and broadband providers to help jumpstart the deployment of broadband infrastructure in unserved areas of the country. Such funding will help to reduce the costs associated with broadband deployment, thereby increasing the accessibility and affordability of broadband service.
- Broadband providers should be able to partner with pole owners to leverage infrastructure funding for pole replacements and make-ready in order to expedite broadband deployments.

6. Pole Capacity Should Be Expanded When Necessary and Costs Should be Shared Fairly

- Poles that are too short, crowded or not strong enough to support new broadband facilities should be replaced or reinforced so that broadband can be deployed where it is needed.
- Costs for expanded capacity should be shared equitably.
- The cost of replacing older poles should not be borne entirely by new or existing attachers. Imposing the entire pole replacement costs on new or existing attachers unfairly subsidizes the pole owner's plant (as the pole owner would have otherwise been responsible for replacement) and unreasonably drives up the cost of new broadband and communications deployment. Pole owners share in the benefits of pole replacements,

particularly by avoiding certain future replacement and maintenance costs, and should contribute to pole replacements accordingly.

- Make ready work for new attachers should not include costs for correcting pre-existing violations of licensors, licensees, or joint users.

7. Engineering and Safety Requirements Should Be Reasonable and Transparent.

- Pole owners' safety and engineering standards should be reasonable given local conditions—and should be based upon genuine safety and engineering considerations. Safety and engineering codes should not be used by pole owners as a pretext to force attachers to pay for improvements, or to make it more difficult for attachers to offer competing services.
- Safe temporary attachments and extension arms should be permitted to allow broadband to be extended to unserved areas pending completion of make-ready work on poles.
- Pole owners and providers should coordinate and use third party resources if necessary to expedite the engineering and permitting process.

8. Overlapping Should Be Permitted Upon Notice, Without Separate Application Requirements.

- Overlapping—*i.e.*, adding a new attachment to an existing one—helps speed broadband deployment by enabling broadband facilities to be deployed simply and safely, as long as overlapping follows generally accepted safety and engineering standards.

9. Regulators Should Make Prompt Dispute Resolution Available for Pole Access Disputes.

- Sensible pole access and attachment rules will only help speed broadband deployment if they are followed and enforced. Disputes must be resolved by regulators quickly.
- Policy-makers should include all stakeholders in the process of developing and implementing pole attachment policies.

10. Pole Owners Should Keep Sufficient, Timely Records to Calculate Recurring Rates, and Make the Records Available.

- Sensible rules governing just and reasonable rental charges for poles are only meaningful if pole owners maintain and share the data necessary to calculate those rates fairly and accurately.
- The process of rate calculation should be fair and transparent.

For questions about these Pole Attachment Principles, please contact John Windhausen, Executive Director, SHLB Coalition, at jwindhausen@shlb.org.