



## Broadband Pole Attachments

July 2018

### **Key Messages:**

- NWPPA members support the development of broadband and small cell, but we have serious concerns with S. 3157, “the STREAMLINE Small Cell Deployment Act” (Thune-Schatz).
- S. 3157 would overrule the local control of poles owned by not-for-profit utilities including municipal and public/people’s utility districts and impose a top-down, one-size-fits-all process. The legislation also requires utilities to respond to attachment requests within a certain timeframe or the request is deemed granted.
- While NWPPA welcomes partnership with telecommunications companies to install these facilities, it cannot accept legislation that eliminates the current not-for-profit utility exemption to FCC regulation for municipal and public/people’s utility districts or legislation that could compromise important utility infrastructure.
- Communication companies have not demonstrated the need for regulation of not-for-profit utilities. There is no widespread evidence that communications companies are being prohibited from attaching their technology to not-for-profit utility poles or that pole attachment requests are being unreasonably delayed.
- Regulating the timing and the rates for pole attachments not only threatens the safety of not-for-profit utility owned distribution systems but unfairly transfers the true costs of those attachments to electric customers.
- Pole attachments must be done safely – which often takes time to ensure – and without forcing our customers to subsidize theirs.

### **Background:**

To encourage the expansion of cable television and broadband, Congress directed the Federal Communications Commission (FCC) to set the price of pole attachment fees for privately-owned utilities at below-market rates (exempting not-for-profit utilities whose rates are already governed in the public interest).

Congress has repeatedly upheld exemptions for not-for-profit utilities from pole attachment regulations. The exemption from the FCC’s subsidized price allows public power utilities to set

pole attachment fees at or near the actual cost to the utility to prepare and attach new lines. However, Congress granted states the authority to preempt the federal pole attachment rate-setting regime, including the public power exemption, and many states have set pole attachment rates for all utilities at the FCC's standard.

Telecom companies work with utilities to attach broadband cables and 4G and 5G antennas to electric poles in order to improve their service to meet increasing demand. Antenna attachments can be placed on top of the pole or to the upper side of the pole and may require an electric connection. Utilities assess a regulated fee to telecom carriers for access to their poles.

Telecom carriers have urged Congress and the FCC to intervene and further limit utilities' ability to recover their actual costs of permitting attachments. Carriers have also urged Congress and the FCC to direct an expedited approval process for public power utilities to follow in evaluating the safety of pole attachments and ensuring their safe installation.

Senate Commerce Committee Chairman John Thune (R-SD) and Sen. Brian Schatz (D-HI) have introduced legislation (S.3157) that would affect pole attachment rates and application processes for municipal and public/people's utility districts (while unclear as to congressional intent, it appears rural electric cooperatives are not subject to regulation under this bill.) The Thune-Schatz bill removes the exemption public power utilities have from federal pole attachment regulation, thereby imposing below-market pole attachment fee rates on all states. The bill would then subject public power utilities to deadlines to complete various steps in the pole attachment review process (often called "shot clocks") and to automatically approve a carrier's application if the utility fails to meet a deadline (often called "deemed approved").

These requirements undermine local control and shift the costs of broadband pole attachments to electric ratepayers. Additionally, the strict timelines coupled with rapidly increasing pole attachment requests would undermine a thorough review, putting utility employees, facilities and systems, and the public, at risk. NWPPA recently sent a letter to leaders of the Senate Commerce Committee, as well as members of its delegation serving on this committee, urging the committee to reject this bill and to preserve the public power exemption.