



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120

IN REPLY PLEASE
REFER TO OUR FILE

Docket No.
L-2018-3002672

July 29, 2024

TO ALL ELECTRIC DISTRIBUTION COMPANIES, LOCAL EXCHANGE
CARRIERS, STATUTORY ADVOCATES AND THE POLE ATTACHMENT
WORKING GROUP

Re: Adoption of Federal Communications Commission Regulations Pursuant to
52 Pa. Code § 77.4
Docket No. L-2018-3002672

On December 15, 2023, the Federal Communications Commission (FCC) released its Fourth Report & Order (Order) in WC Docket No. 17-84, *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*. The FCC's Order includes two distinct components (Federal Rule Changes):

1. Information from cyclical pole inspection reports (new subsection (c)(4) to existing 47 C.F.R. § 1.1411 (relating to information from cyclical pole inspection reports)). The FCC amended its pole attachment make-ready rules to require utilities to provide to potential attachers, upon request, the information contained in their most recent cyclical pole inspection reports, or any intervening, periodic reports created before the next cyclical inspection, for the poles covered by a submitted attachment application, including whether any of the affected poles have been "red tagged" by the utility for replacement, and the scheduled replacement date or timeframe (if any). Per notice published in the Federal Register on July 25, 2024, the effective date of this new rule is July 25, 2024.
2. Dispute Resolution Procedures for Pole Attachment Disputes that Impede or Delay Broadband Deployment; Functions of the Rapid Broadband Assessment Team (new section § 1.1415). The FCC established an agency-wide rapid response team to provide coordinated review and assessment of pole attachment disputes that impede or delay broadband deployment and recommend effective dispute resolution procedures, and adopted specific criteria to guide

that team when considering whether a complaint (or portion thereof) should be included on the Enforcement Bureau's Accelerated Docket. Per notice published in the Federal Register on July 25, 2024, the effective date of this new rule is July 25, 2024.

The Pennsylvania Public Utility Commission (PUC or Commission) maintains regulations applicable to pole attachments at 52 Pa. Code Chapter 77 (relating to pole attachments). Chapter 77 "adopts the rates, terms and conditions of access to and use of utility poles, ducts, conduits and rights-of-way to the full extent provided for in 47 U.S.C. § 224 and 47 CFR Chapter I, Subchapter A, Part 1, Subpart J (relating to pole attachment complaint procedures), inclusive of future changes as those regulations may be amended." 52 Pa. Code § 77.4(a). The Federal Rule Changes included in the FCC's Order constitute amendments to the FCC regulations referenced in Chapter 77.

Therefore, the Federal Rule Changes shall take effect 60 days after the effective date of the Federal change, or September 23, 2024, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect. 52 Pa. Code § 77.4(c). Such a notice will provide an opportunity for public comment on the Federal change. Comments may be filed with the Commission no later than 15 days following publication of the Commission notice in the *Pennsylvania Bulletin*. 52 Pa. Code § 77.4(d). A Federal Rule Change that is the subject of a Commission notice stating that the change may not take effect and providing for public comment shall become effective 60 days after publication of the notice in the *Pennsylvania Bulletin* unless the Commission determines otherwise for good cause shown. 52 Pa. Code § 77.4(e).

Pursuant to 52 Pa. Code § 77.4(c)-(e), the Commission hereby provides notice to the public that the Federal Rule Changes may not take effect in Pennsylvania, and hereby solicits public comment on the Federal Rule Changes. Specifically, the Commission asks interested parties to comment on the following two (2) numbered topics:

1. Pursuant to 52 Pa. Code § 77.4(e), should the Commission allow the FCC's addition of new subsection (c)(4) to existing regulation 47 C.F.R. § 1.1411 to become effective in Pennsylvania by operation of law on the date that is sixty (60) days from publication of this notice in the *Pennsylvania Bulletin*, or should the Commission determine otherwise for good cause shown?
2. Pursuant to 52 Pa. Code § 77.4(e), should the Commission allow the FCC's new section 1.1415 to become effective in Pennsylvania by operation of law on the date that is sixty (60) days from publication of this notice in the *Pennsylvania Bulletin*, or should the Commission determine otherwise for good cause shown?

Commenters are reminded that “the Commission's decision to establish a process for input prior to changes to the federal rules taking effect should not be construed as an invitation for Pennsylvania utilities and other interested parties to regularly rehash or reargue determinations of the FCC. Rather, this process should be utilized to focus on the Pennsylvania-specific impacts of such changes. If the Commission does find it necessary to amend Chapter 77 to accommodate state-specific changes, the Commission will initiate an appropriate rulemaking, and the public will be notified and provided with appropriate opportunity to comment.” 2019 PA. PUC LEXIS 267, *34.

Interested parties are invited to submit written comments for inclusion in the record with the Secretary of the Commission within fifteen (15) days of the date of the publication of this notice in the *Pennsylvania Bulletin*. Pursuant to this Secretarial Letter, all filings are to be made by e-filing or by electronic mail. This information can be found on the Commission’s website at www.puc.state.pa.us/efiling/default.aspx.

The contact persons for this matter are Assistant Counsel Colin W. Scott, (717) 783-5949, colinscott@pa.gov and Tiffany L. Tran, (717) 783-5413, tiftran@pa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta
Secretary