



900 Race Street
6th Floor
Philadelphia, PA 19107

Suzan DeBusk Paiva
Associate General Counsel
Suzan.d.paiva@verizon.com
(267) 768-6184

February 3, 2026

Via eFile

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Verizon Pennsylvania LLC and Verizon North LLC v. Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company; Docket No. C-2020-3019347 – FEDERAL COMMUNICATIONS COMMISSION MOTION TO REOPEN

Dear Secretary Homsher:

Enclosed is a copy of the Motion to Reopen filed today with the Federal Communications Commission (“FCC”) on behalf of Verizon Pennsylvania LLC and Verizon North LLC (together, “Verizon”) requesting that the FCC reopen its docket because jurisdiction over Verizon’s pole attachment rate complaint against FirstEnergy has reverted to the FCC by operation of law.¹

Because this Commission’s 2020 decision has been remanded on appeal, Pennsylvania has not taken “final action” on this pole attachment rate complaint within the statutory deadline required as a prerequisite for state jurisdiction to continue.² Under 47 U.S.C. § 224(c)(3)(B), a state must take final action “with respect to any individual matter” within 180 days or a date set by state regulation that cannot exceed 360 days (here, 270 days) “after the

¹ Verizon originally filed this complaint at the FCC on November 20 2019, but it was transferred to this Commission on March 23, 2020 after this Commission certified that it had issued and made effective rules and regulations implementing the Commonwealth’s regulatory authority over pole attachments. The complaint named Metropolitan Edison Company, Pennsylvania Electric Company, and Penn Power Company, which have since reorganized into FirstEnergy Pennsylvania Electric Company. These entities are referred to as “FirstEnergy.”

² *FirstEnergy Pennsylvania Elec. Co. v. Pennsylvania Pub. Util. Comm’n*, No. 42 MAP 2024, 2026 WL 61600, at *18 (Pa. Jan. 8, 2026) (vacating the Commonwealth Court’s order affirming the PUC and remanding to the Commonwealth Court to remand to the PUC for further proceedings); *FirstEnergy Pennsylvania Elec. Co. v. Pennsylvania Pub. Util. Comm’n*, 521 CD 2021 (Order entered January 29, 2026) (remanding to the PUC for further proceedings).

complaint is filed with the State,” failing which “a State shall not be considered to regulate the rates, terms, and conditions for pole attachments” with regard to that case and jurisdiction over that individual matter reverts to the FCC by operation of law. The FCC’s regulation at 47 C.F.R. § 1.1405(f) (which was adopted by this Commission as part of Chapter 77) makes this consequence plain, as follows:

- (f) Notwithstanding any such certification [that a state regulates pole attachments], jurisdiction **will revert to this Commission [the FCC] with respect to any individual matter**, unless the state takes final action on a complaint regarding such matter:
 - (1) Within 180 days after the complaint is filed with the state, or
 - (2) Within the applicable periods prescribed for such final action in such rules and regulations of the state, if the prescribed period does not extend beyond 360 days after the filing of such complaint.³

In its *Final Rulemaking Order* adopting Chapter 77 and confirming its reverse preemption over pole attachments, this Commission explained the possibility of jurisdiction reverting to the FCC if the deadline is missed.

We also point out the reciprocal nature of pole attachments reverse preemption. 47 U.S.C. § 224(c)(3) and updated 47 CFR § 1.1405(f) provide that jurisdiction over pole attachments **will revert back to the FCC if a state fails to meet the statutory deadline in any individual case**, specifically rendering a decision within 180 days after a complaint is filed unless the state establishes a different time period which cannot exceed 360 days under Section 224(c)(3)(B)(ii). While the Commission does not anticipate losing jurisdiction over specific complaints in this manner, should it occur, parties will apply the same substantive rules in either venue. This is yet another reason why parity between the Pennsylvania and federal rules benefits stakeholders.⁴

Verizon recognizes that the Commission originally decided this matter within the federal statutory deadline, which is 270 days in this case.⁵ Unfortunately, the Pennsylvania Supreme Court’s decision, reversing the Commonwealth Court and remanding to this Commission, deprived the Commission’s original order of the finality required by federal law.⁶

³ 47 C.F.R. § 1.1405(f) (emphasis added).

⁴ *Assumption of Comm’n Jurisdiction over Pole Attachments from the Fed. Commc’ns Comm’n*, No. L-2018-3002672, 2019 WL 4345730, at *17 (Pa. PUC 2019) (“*Final Rulemaking Order*”) (emphasis added).

⁵ 52 Pa. Code § 77.5(d); *Verizon Pa., et al. v. Metropolitan Edison Co., et al.*, No. C-2020-3019347, 2020 WL 7682434, at *5 (Pa. PUC Dec. 18, 2020).

⁶ See, e.g., *Shaffer v. Smith*, 543 Pa. 526, 530, 673 A.2d 872, 874 (1996) (“A judgment is deemed final . . . unless or until it is reversed on appeal.”).

Thus, Pennsylvania has not taken “final action” within the statutory time period, and jurisdiction over this “individual matter” has reverted to the FCC.⁷

Verizon sincerely appreciates the Commission’s considerable efforts to decide this complex case and to defend its decision on appeal. Verizon intends to use its best efforts to ensure that this Commission’s work assembling the record and applying the FCC regulations to the facts of the case does not go to waste. Verizon will urge the FCC to utilize this Commission’s record and to defer to this Commission’s factual and legal findings to the extent permitted by law.

Reversion of jurisdiction to the FCC over this individual matter is required by operation of law, but it is also the best result at this point because:

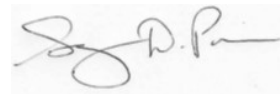
- The FCC can apply its own regulations, including the presumption under 47 C.F.R. § 1.1413(b), without question as to their authority and validity.
- The FCC has experience in these issues and can decide the case efficiently without the specter of another multi-year set of state court appeals, thereby best advancing this Commission’s goal to avoid regulatory uncertainty and resolve disputes promptly to promote broadband investment across Pennsylvania.
- Having the FCC complete this case will conserve this Commission’s administrative resources and allow it to focus on any general actions it determines necessary in light of the Supreme Court’s decision.
- Reversion of this individual case will not affect this Commission’s authority over pole attachments in Pennsylvania generally, as it is strictly limited to this individual case and the issues raised here.

⁷ 47 U.S.C. § 224(c)(3); 47 C.F.R. § 1.1405(f). Because the Pennsylvania Supreme Court put into question the continued validity of this Commission’s regulation adopting the presumption in 47 C.F.R. § 1.1413(b), there is a second basis for jurisdiction to revert to the FCC. The FCC’s rule at 47 C.F.R. § 1.1405(b)(3) requires the state to certify that it has “effective rules and regulations implementing the state’s regulatory authority over pole attachments (including a specific methodology for such regulation which has been made publicly available in the state).” Where a state does not have such effective rules and regulations, the FCC will assume jurisdiction. See *Crown Castle Fiber LLC v. Commonwealth Edison Co.*, 34 FCC Rcd 5959, 5960–61 (¶ 5) (2019) (finding FCC jurisdiction over rates charged a telecommunications company where a state did not have regulations that “specifically govern telecommunications companies’ attachments to poles owned by electric utilities”).

Verizon respectfully requests that this Commission make a written FCC filing supporting the exercise of jurisdiction by the FCC over this matter by operation of law and urging the FCC to use the record and findings developed by this Commission to dispose of this case quickly and efficiently.

Please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzan D. Paiva". The signature is fluid and cursive, with the first name being the most prominent.

Suzan D. Paiva

Cc: Certificate of Service (attached)

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served a true copy of Verizon's letter providing a copy of its Motion to Reopen filed with the Federal Communications Commission, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 3rd day of February, 2026.

VIA E-MAIL

David B. MacGregor
dmacgregor@postschell.com

Anthony D. Kanagy
akanagy@postschell.com

Devin T. Ryan
DRyan@postschell.com

Garrett P. Lent
GLent@postschell.com

Curtis L. Groves
Curtis.groves@verizon.com

Claire J. Evans
Cevans@wileyrein.com

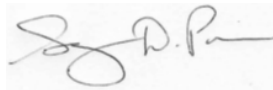
Tori L. Giesler
tgiesler@firstenergycorp.com

Christopher S. Huther
Cevans@wileyrein.com

David E. Screven
DSCREVEN@pa.gov

Colin W. Scott
colin.scott@pa.gov

Christopher F. Van de Verg
cvandeverg@pa.gov



Suzan D. Paiva
Pennsylvania Bar ID No. 53853
900 Race Street, 6th Floor
Philadelphia, PA 19107
(267) 768-6184

Attorney for Verizon

**Before the
Federal Communications Commission
Washington, DC 20554**

VERIZON PENNSYLVANIA LLC and
VERIZON NORTH LLC,

Complainants,

v.

METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC
COMPANY, and PENN POWER
COMPANY, now known as
FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY,

Defendants.

Proceeding No. 19-354
Bureau ID No. EB-19-MD-008

VERIZON’S MOTION TO REOPEN

Jurisdiction over this pole attachment rate proceeding has reverted to the Commission by operation of law. Under 47 U.S.C. § 224(c)(3)(B) and 47 C.F.R. § 1.1405(f), if a state does not resolve a pole attachment complaint within the statutory deadline—here, 270 days—jurisdiction automatically reverts to this Commission. Because the Commonwealth of Pennsylvania has not taken final action within that time, this Commission now has the authority and the obligation to resolve this case. This Commission should, therefore, promptly reopen this docket.

Once the docket is reopened, resolving this case should be straightforward. The Pennsylvania Public Utility Commission (“PUC”) has already developed a robust evidentiary record and issued a comprehensive decision applying this Commission’s pole attachment regulations. Although the Pennsylvania Supreme Court recently vacated the Commonwealth Court’s affirmance of that decision and ordered the case be remanded for further proceedings, it did so based solely on an interpretation of state law and without undermining the PUC’s

substantive findings about the just and reasonable rate that has long been required by this Commission’s regulations. To ensure administrative efficiency and further the federal goal of broadband deployment, this Commission should adopt—or at a minimum grant significant deference to—the PUC’s substantive rate findings, which correctly applied the FCC’s standards, and finally provide Verizon the rate relief to which it has been entitled for over a decade.¹

I. BACKGROUND

The Pole Attachment Act entitles Verizon to just and reasonable pole attachment rates.² In 2011, this Commission ordered electric utilities, including FirstEnergy,³ to reduce the unlawfully high rates they charged incumbent local exchange carriers (“ILECs”) like Verizon, noting that “widely disparate pole rental rates distort infrastructure investment decisions and in turn could negatively affect the availability of advanced services and broadband.”⁴ When FirstEnergy and other electric utilities resisted these reductions,⁵ this Commission adopted a rebuttable presumption in 2018, effective March 2019, that the lawful rate for ILECs is the “new

¹ *Verizon Pa. v. Metropolitan Edison Co.*, No. C-2020-3019347, 2020 WL 7682434 (Pa. PUC Dec. 18, 2020).

² 47 U.S.C. § 224(b).

³ In this Motion, “FirstEnergy” refers to the defendants, Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), and Penn Power Company (“Penn Power”), which are now known collectively as “FirstEnergy Pennsylvania Electric Company,” and “Verizon” refers to the two complainants, Verizon Pennsylvania and Verizon North.

⁴ *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240, 5243 (¶ 6) (2011) (“2011 Order”).

⁵ See, e.g., *In the Matter of Accelerating Wireline Broadband Deployment*, Third Report and Order and Declaratory Ruling, 33 FCC Rcd 7705, 7767 (¶ 123) (2018) (“2018 Order”) (“[I]LECs allege ... that electric utilities continue to charge pole attachment rates significantly higher than the rates charged to similarly situated telecommunications attachers, and that these higher rates inhibit broadband deployment.”) (citation omitted).

telecom rate,” the same rate guaranteed to their competitors.⁶ An electric utility can rebut this presumption only by proving it provides the ILEC benefits under their joint use agreement that give the ILEC a net material advantage over those competitors.⁷ Even if an electric utility successfully rebuts the presumption, the “old telecom rate” remains the maximum rate it may lawfully charge.⁸

Despite the *2018 Order*, FirstEnergy still refused to lower the rates it was charging Verizon in compliance with this Commission’s orders. Verizon filed this complaint in November 2019. In March 2020, after the case was fully briefed under this Commission’s rules, the Commonwealth of Pennsylvania assumed jurisdiction over pole attachments by certifying that it had “issued and made effective rules and regulations implementing its regulatory authority over pole attachments in the state, including a specific methodology.”⁹ Following this certification, the Enforcement Bureau transferred this case to the Pennsylvania PUC.¹⁰

⁶ 47 C.F.R. § 1.1413(b); *see also* 47 C.F.R. § 1.1406(d). The presumption applies to agreements that were “entered into, renewed, or in evergreen status after” the March 11, 2019 effective date of the *2018 Order*, including “agreements that are automatically renewed, extended, or placed in evergreen status.” *2018 Order*, 33 FCC Rcd at 7770 (¶ 127 & n.475). The Pennsylvania PUC found that the joint use agreements in this case “were evergreen contracts after March 11, 2019, which means that ‘new telecom rate’ presumption applies in this case.” *Verizon Pa.*, 2020 WL 7682434, at *23. FirstEnergy did not challenge this finding on appeal. *See Verizon Pa. LLC v. Pa. Pub. Util. Comm’n*, 303 A.3d 219, 234 (Pa. Commw. Ct. 2023) (“[T]he PUC found that Verizon established that the JUAs were ‘entered into or renewed’ after the March 11, 2019 effective date of 47 C.F.R. § 1.1413(b) based on the automatic renewal provisions contained in the JUAs.... This finding, which FirstEnergy does not challenge on appeal, triggered the rebuttable presumption ...”), *vacated and remanded sub nom. FirstEnergy Pa. Elec. Co. v. Pa. Pub. Util. Comm’n*, No. 42 MAP 2024, 2026 WL 61600 (Pa. Jan. 8, 2026).

⁷ 47 C.F.R. § 1.1413(b); *2018 Order*, 33 FCC Rcd at 7770 (¶ 128).

⁸ *2018 Order*, 33 FCC Rcd at 7771 (¶ 129).

⁹ *States That Have Certified That They Regulate Pole Attachments*, Public Notice, 35 FCC Rcd 2784, 2784–85 (2020) (“*Public Notice*”).

¹⁰ *Verizon Pa. v. Metropolitan Edison Co.*, Order, 35 FCC Rcd 2838, 2839 (¶ 3) (EB 2020).

Pennsylvania’s pole attachment rate methodology is identical to this Commission’s because the Pennsylvania PUC adopted this Commission’s pole attachment regulations as its own.¹¹

Under the Pole Attachment Act, a state that has assumed jurisdiction over pole attachment disputes must resolve individual complaints within 180 days, or a state-set period not to exceed 360 days.¹² If the state does not take “final action” by the deadline, jurisdiction over the particular dispute reverts to this Commission.¹³ The Pennsylvania PUC found that a 270-day deadline applies to this case under its regulations,¹⁴ and recognized that jurisdiction would revert to this Commission if the Commonwealth failed to resolve the dispute with finality during that

¹¹ 52 Pa. Code § 77.4(a) (“This chapter 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.”). The Pennsylvania PUC decided to treat this Commission’s “orders promulgating and interpreting Federal pole attachment rules and Federal court decisions reviewing those rules and interpretations as persuasive authority in construing the provisions of 47 U.S.C. § 224 and 47 CFR Chapter I, Subchapter A, Part 1, Subpart J.” 52 Pa. Code § 77.5(c).

¹² 47 U.S.C. § 224(c)(3)(B) (“[A] State shall not be considered to regulate the rates, terms, and conditions for pole attachments ... with respect to any individual matter, unless the State takes final action on a complaint regarding such matter (i) within 180 days after the complaint is filed with the State, or (ii) within the applicable period prescribed for such final action in such rules and regulations of the State, if the prescribed period does not extend beyond 360 days after the filing of such complaint.”).

¹³ 47 C.F.R. § 1.1405(f) (“Notwithstanding any such certification, jurisdiction will revert to this Commission with respect to any individual matter, unless the state takes final action on a complaint regarding such matter: (1) Within 180 days after the complaint is filed with the state, or (2) Within the applicable periods prescribed for such final action in such rules and regulations of the state, if the prescribed period does not extend beyond 360 days after the filing of such complaint.”).

¹⁴ 52 Pa. Code § 77.5(d) (“The [PUC] will take final action consisting of an order that will issue within 180 days of the filing of a formal complaint initiating a pole attachment dispute as required by 47 U.S.C. § 224(c)(3)(B)(i) except for good cause shown. If the [PUC] determines that a final action will not issue within 180 days, the [PUC] will issue a final action consisting of an order no later than 270 days from the filing of the formal complaint as permitted by 47 U.S.C. § 224(c)(3)(B)(ii).”); *see also Verizon Pa.*, 2020 WL 7682434, at *5 (“[I]t was determined that ... good cause existed for this case to be concluded within 270 days, as allowed for in Chapter 77 of the [PUC]’s Regulations.”).

window.¹⁵ Indeed, during its initial rulemaking, the PUC noted that the possibility of losing jurisdiction over an individual case supported its adoption of this Commission’s regulations.¹⁶ The PUC explained that doing so would ensure a seamless transfer of jurisdiction back to this Commission, which would save the parties the time and expense of having to relitigate issues under different standards pre- and post-transfer.¹⁷ Seeking to meet the 270-day deadline, the PUC referred the case to an Administrative Law Judge, who oversaw extensive discovery and accepted voluminous evidentiary submissions and legal briefings before providing a recommended decision.¹⁸ The PUC considered the parties’ exceptions to that decision before issuing a comprehensive decision on December 18, 2020—exactly 270 days after the transfer.¹⁹ Applying the ILEC rate presumption in 47 C.F.R. § 1.1413(b) to a robust evidentiary record, the PUC found that Verizon was entitled to the new telecom rate calculated with the inputs Verizon proposed, which included the presumptive inputs in this Commission’s regulations, and to a refund of prior amounts Verizon overpaid.²⁰

¹⁵ *Verizon Pa.*, 2020 WL 7682434, at *4 (noting “the regulatory time constraint for this case”); *id.* at *5 (identifying “the time frame within which the [PUC] must act on this case”); *id.* at *8 (noting “the possibility of cases reverting back to the FCC” due to the statutory deadline).

¹⁶ *Assumption of Comm’n Jurisdiction over Pole Attachments from the Fed. Commc’ns Comm’n*, No. L-2018-3002672, 2019 WL 4345730, at *17 (Pa. PUC 2019) (“*Final Rulemaking Order*”) (“We also point out the reciprocal nature of pole attachments reverse preemption. 47 U.S.C. § 224(c)(3) and updated 47 CFR § 1.1405(f) provide that jurisdiction over pole attachments will revert back to the FCC if a state fails to meet the statutory deadline in any individual case”).

¹⁷ *Id.* (“While the [PUC] does not anticipate losing jurisdiction over specific complaints in this manner, should it occur, parties will apply the same substantive rules in either venue. This is yet another reason why parity between the Pennsylvania and federal rules benefits stakeholders.”).

¹⁸ *Verizon Pa.*, 2020 WL 7682434, at *4-6.

¹⁹ *Id.* at *5 (“[I]t was determined that the Complaint would be considered filed as of March 23, 2020 for purposes of commencing the time frame within which the Commission must act on this case”).

²⁰ *See, e.g., id.* at *26 (finding Verizon “is entitled to the new telecom rates when attaching to [FirstEnergy’s] poles”); *id.* at *31 (finding “that FirstEnergy did not provide probative direct

After years of appellate proceedings in Pennsylvania courts,²¹ on January 8, 2026, the Pennsylvania Supreme Court vacated the Commonwealth Court’s affirmance of the PUC’s decision and ordered the case to be remanded to the PUC for further proceedings.²² The Court did not find that the PUC misapplied the substance of this Commission’s regulations. Rather, it held that the PUC lacked statutory authority under Pennsylvania law to declare a “presumptive maximum just and reasonable pole attachment rate” to be charged ILECs in Pennsylvania.²³ The Court required further proceedings without addressing the statutory deadline in 47 U.S.C. § 224(c)(3) or the merits of the PUC’s application of this Commission’s regulations.²⁴

evidence sufficient to forgo the rate calculation inputs in the FCC regulations”); *id.* at *42 (“agree[ing] with the decision to direct a refund to Verizon”).

²¹ The PUC also considered a Petition for Reconsideration, which it promptly resolved on April 15, 2021. *See Verizon Pa. v. Metropolitan Edison Co.*, No. C-2020-3019347, 2021 WL 1534294 (Pa. PUC Apr. 15, 2021).

²² *FirstEnergy Pa. Elec. Co. v. Pa. Pub. Util. Comm’n*, No. 42 MAP 2024, 2026 WL 61600, at *18 (Pa. Jan. 8, 2026).

²³ *Id.* The Pennsylvania Supreme Court’s decision establishes a second basis for this Commission’s jurisdiction over this case—specifically, that the Pennsylvania Supreme Court negated the effectiveness of the PUC’s methodology for regulating rates charged ILECs. *See* 47 C.F.R. § 1.1405(b)(3) (requiring “*effective* rules and regulations implementing the state’s regulatory authority over pole attachments (including a *specific methodology* for such regulation which has been made publicly available in the state)”) (emphases added); *see also Crown Castle Fiber LLC v. Commonwealth Edison Co.*, 34 FCC Rcd 5959, 5960–61 (¶ 5) (2019) (finding Commission jurisdiction over rates charged a telecommunications company where a state did not have regulations that “specifically govern telecommunications companies’ attachments to poles owned by electric utilities”). This Commission need not reach this alternative basis for jurisdiction, however, because there can be no dispute that the Commonwealth has not taken “final action” within 270 days, such that jurisdiction has automatically reverted to this Commission under 47 U.S.C. § 224(c)(3)(B) and 47 C.F.R. § 1.1405(f).

²⁴ *FirstEnergy Pa. Elec. Co.*, 2026 WL 61600, at *18.

II. ARGUMENT

A. Jurisdiction Has Automatically Reverted to this Commission Because Pennsylvania Failed To Take Final Action Within the 270-Day Statutory Window.

Because the Pennsylvania Supreme Court has vacated the order affirming the PUC's decision and required additional proceedings, Pennsylvania has not taken "final action" on Verizon's complaint within the mandatory 270-day deadline.²⁵ By operation of law, jurisdiction to resolve this "individual matter" is now with this Commission.²⁶ For administrative efficiency, the Commission should reopen this docket (instead of starting a new docket) to complete the limited remaining work needed to finally resolve this longstanding dispute.

²⁵ 47 U.S.C. § 224(c)(3)(B); 47 C.F.R. § 1.1405(f); 52 Pa. Code § 77.5(d); *see also Verizon Pa.*, 2020 WL 7682434, at *5 (finding "good cause existed for this case to be concluded within 270 days," rather than 180 days).

²⁶ 47 U.S.C. § 224(c)(3)(B); 47 C.F.R. § 1.1405(f); *see also, e.g., Public Notice*, 35 FCC Rcd at 2784 n.3 (recognizing Pennsylvania's reverse-preemption of pole attachment disputes and noting that "jurisdiction will revert to the Federal Communications Commission unless the state takes final action on a pole attachment complaint (1) within 180 days after the complaint is filed with the state, or (2) within the applicable period established by the state for final action, so long as the period does not extend beyond 360 days after the filing of a complaint with the state."); *In Re Amend. of Commission's Rules & Policies Governing Pole Attachments*, 16 FCC Rcd 12103, 12109 (¶ 7 n.33) (2001) ("Reversion [of jurisdiction] to the Commission, with respect to individual matters, also occurs if the state does not take final action on a complaint within 180 days after its filing with the state, or within the applicable period prescribed for such final action in the state's rules, as long as that prescribed period does not extend more than 360 days beyond the complaint's filing."); *In Re Amend. of Rules & Policies Governing Pole Attachments*, 15 FCC Rcd 6453, 6456 (¶ 2 n.11) (2000) (same); *In the Matter of Implementation of Section 703(e) of the Telecommunications Act of 1996*, 13 FCC Rcd 6777 (¶ 6 n.20) (1998) (same); *In the Matter of Implementation of Section 703(e) of the Telecommunications Act of 1996*, 12 FCC Rcd 11725, 11727 (¶ 5 n.13) (1997) (same); *In the Matter of Amend. of Rules & Policies Governing Pole Attachments*, 12 FCC Rcd 7449, 7451 (¶ 3 n.10) (1997) (same).

B. The Commission Should Adopt the PUC’s Substantive Rate Findings, Which Are Supported by a Robust Record and Remain Undisturbed by the State Court’s State-Law Ruling.

Once reopened, little work remains for this Commission. The Pennsylvania PUC has already done the heavy lifting and found, based on a robust evidentiary record, that:

- (1) “Verizon has demonstrated that it is entitled to the new telecom rate under the FCC’s regulations,”
- (2) the new telecom rate should be calculated using the inputs proposed by Verizon, which included the presumptive inputs in 47 C.F.R. §§ 1.1409 and 1.1410, and
- (3) FirstEnergy should provide Verizon refunds under 47 C.F.R. § 1.1407(a)(3).²⁷

After reopening this pole attachment complaint docket, therefore, the Commission should enforce these findings. The PUC reached its decision after an exhaustive process that included the complete set of pleadings filed at this Commission, five rounds of pre-served written testimony following unlimited written discovery, initial and reply briefs, a recommended decision from an Administrative Law Judge, and exceptions and reply exceptions to that recommended decision.²⁸

These findings applying the plain language of this Commission’s regulation remain sound. The Pennsylvania Supreme Court’s decision turned solely on the PUC’s authority under

²⁷ *Verizon Pa.*, 2020 WL 7682434, at *31–*34, *40–*42. Although the Pennsylvania PUC correctly awarded refunds, it failed to do so “consistent with the statute of limitations” in accordance with 47 C.F.R. § 1.1407(a)(3). In particular, the PUC found that the “applicable statute of limitations” dates back four years prior to the filing of a complaint, but it only ordered refunds as of the filing of the complaint. *See Verizon Pa.*, 2020 WL 7682434, at *41–*42; 66 Pa. Cons. Stat. § 1312(a). Verizon preserved its challenge to the PUC’s selected refund period at all appellate stages. *See FirstEnergy Pa. Elec. Co.*, 2026 WL 61600, at *7, *18 (not reaching Verizon’s challenge to the adopted refund period); *Verizon Pa.*, 303 A.3d at 245 (considering Verizon’s challenge to the adopted refund period); *Verizon Pa.*, 2021 WL 1534294 (denying Verizon’s petition for reconsideration of the refund period).

²⁸ *Verizon Pa.*, 2020 WL 7682434, at *3–*6.

state law to rely on the ILEC rate presumption in this Commission’s regulations.²⁹ The Court did not question the underlying evidence or the validity of the resulting rates under federal standards. Indeed, Pennsylvania’s intermediate appellate court, the Commonwealth Court, affirmed the PUC’s findings, agreeing:

- (1) the new telecom rate applies under 47 C.F.R. § 1.1413(b) because the PUC’s finding was “supported by substantial evidence of record presented by Verizon, and the relative lack of evidence presented by FirstEnergy,”³⁰
- (2) the PUC properly calculated the new telecom rate using the inputs proposed by Verizon because FirstEnergy’s request for alternate inputs “was based on outdated rates of return” and evidence that was “limited, flawed, and skewed,”³¹ and
- (3) the PUC did not violate 47 C.F.R. § 1.1407 when it awarded Verizon refunds.³²

FirstEnergy did not ask the Pennsylvania Supreme Court to review these specific holdings.³³ Nor did FirstEnergy seek review of the shared conclusion of the Pennsylvania PUC

²⁹ *FirstEnergy Pa. Elec. Co.*, 2026 WL 61600, at *16 (“[T]he issue before us is whether the PUC had the authority to adopt these regulations.”). This issue had not been raised in the underlying rulemaking, where FirstEnergy supported the PUC’s adoption of the Commission’s regulations. *See, e.g., Final Rulemaking Order*, 2019 WL 4345730, at *5; Comments of FirstEnergy at 7–8, Docket No. L-2018-3002672 (Pa. PUC Oct. 29, 2018) (stating that FirstEnergy “cautiously support[s]” Pennsylvania’s decision and acknowledging that “[t]he FCC’s regulations provide new lower rates for Incumbent Local Exchange Carriers (‘ILECs’)”).

³⁰ *Verizon Pa.*, 303 A.3d at 237.

³¹ *Id.* at 238–39 (citations omitted).

³² *Id.* at 243.

³³ *FirstEnergy Pa. Elec. Co.*, 2026 WL 61600, at *7. In addition to the issue that the Pennsylvania Supreme Court decided, FirstEnergy preserved two issues that have been mooted by this Commission’s jurisdiction. The first questioned whether the PUC “consider[ed] the interests of the FirstEnergy Companies’ electric customers” as required to regulate pole attachments when it adopted and enforced this Commission’s regulations. *See id.*; *see also* 47 U.S.C. § 224(c)(2)(B). The second asserted that the PUC lacked authority under state law to award refunds. *FirstEnergy Pa. Elec. Co.*, 2026 WL 61600, at *7. These moot issues were never well-grounded. The PUC adopted and enforced this Commission’s regulations, which consider the interests of electric customers by ensuring a “just, reasonable, and fully compensatory” rate. *2011 Order*, 26 FCC Rcd at 5321, 5330–31 (¶¶ 183, 208). Indeed, the new telecom rate formula is “designed so that utilities will not be cross-subsidizing attachers.” *Id.* at 5321 (¶ 182); *see also Implementation of Section 224 of the Act; A National Broadband Plan for*

and the Commonwealth Court that the case-specific findings on the record of this case are valid alongside this Commission’s decisions in other pole attachment disputes, including the rate dispute between the parties’ Maryland affiliates.³⁴

Consequently, when this case is reopened, this Commission can and should treat the Pennsylvania PUC’s findings as law of the case.³⁵ At a minimum, this Commission should obtain the PUC’s record and grant the PUC’s decision great deference.

The Pennsylvania PUC “[saw] no reason to deviate from FCC-based rates or ratemaking procedures.”³⁶ Instead, it wanted to expedite enforcement of this Commission’s rate reforms to

Our Future, Order on Reconsideration, 30 FCC Rcd 13731, 13744 (¶ 28) (2015) (“Utilities further argue that [the new telecom rate] would unfairly reduce their revenue from pole attachments.... We find these arguments unpersuasive.”). And Pennsylvania law expressly provides for four years of refunds “in any proceeding involving rates” where the PUC “determine[s] that any rate received by a public utility was unjust or unreasonable” 66 Pa.C.S. § 1312(a).

³⁴ See, e.g., *Verizon Pa.*, 303 A.3d at 235–37 (rejecting FirstEnergy’s reliance on this Commission’s decisions in three rate disputes “[b]ased on the evidence presented” in this case) (citing *BellSouth Telecommunications, LLC d/b/a AT&T Fla. v. Duke Energy Fla., LLC*, 36 FCC Rcd 18252 (2001); *Verizon Md. LLC v. the Potomac Edison Co.*, 35 FCC Rcd 13607 (2020); *BellSouth Telecommunications, LLC d/b/a AT&T Fla. v. Fla. Power and Light Co.*, 35 FCC Rcd 5321 (2020)); *Verizon Pa.*, 2020 WL 7682434, at *25 n.26 (“[I]t appears that the record in *Verizon Maryland* contains distinguishing features from the evidence in this proceeding”) (citing *Verizon Md.*, 35 FCC Rcd 13607).

³⁵ *Kimberlin v. Quinlan*, 199 F.3d 496, 500 (D.C. Cir. 1999) (“[A] legal decision made at one stage of litigation, unchallenged in a subsequent appeal when the opportunity to do so existed, becomes the law of the case for future stages of the same litigation, and the parties are deemed to have waived the right to challenge that decision at a later time.”) (citation omitted); see also, e.g., *Hill v. Henderson*, 195 F.3d 671, 678 (D.C. Cir. 1999) (“[A] decision of a court of coordinate status is entitled to be considered ‘law of the case.’”); *Laffey v. Nw. Airlines, Inc.*, 642 F.2d 578, 585 (D.C. Cir. 1980) (“To warrant divergence from the law of the case,” this Commission “must not only be convinced that [the] earlier decision was erroneous; it must also be satisfied that adherence to the law of the case will work a grave injustice.”) Enforcing this Commission’s regulations and the PUC’s correct rate determination under them, which was affirmed by the Commonwealth Court, cannot be erroneous or work a grave injustice.

³⁶ *Final Rulemaking Order*, 2019 WL 4345730, at *42; see also *id.* at *7 (“[T]he [PUC] will adopt, in whole, the FCC’s regulatory regime for pole attachment complaint procedures and will uphold the status quo, which will avoid regulatory uncertainty and will promote broadband

quickly bring the benefits of just and reasonable rates to Pennsylvania.³⁷ Now that jurisdiction over this individual matter has reverted to this Commission, the Commission can and should promptly further the PUC’s stated goals, which are goals that this Commission shares. It can do so by relying on the PUC’s robust, extensive record and comprehensive decision to ensure that a state-specific legal technicality does not continue to stymie federal and state broadband deployment goals.

III. CONCLUSION

This Commission should recognize its jurisdiction under 47 U.S.C. § 224(c)(3)(B) and 47 C.F.R. § 1.1405(f), reopen this proceeding, and promptly resolve it based on the robust record developed at the Pennsylvania PUC.

investment across Pennsylvania.”); *id.* at *23 (“[G]iven that matters of pole attachments are critical to deploying broadband in Pennsylvania and are the subject of considerably detailed national rules to date.... the [PUC] prefers to keep parity with the FCC’s rules.”); *id.* at *27 (“The [PUC] will apply ... existing FCC regulations concerning rates, terms and conditions of pole attachments.”); *id.* at *47 (“The [PUC] will implement the FCC’s regulations in turn-key fashion.”).

³⁷ *Id.* at *6 (“The [PUC] believes its assertion of jurisdiction over pole attachments will assist in spurring investment in, and access to, physical infrastructure used to deliver essential broadband access service to end-user customers by reducing the time and resources spent on disputes by resolving Pennsylvania-specific disputes in Pennsylvania as compared to the FCC.”); *id.* at 25 (“[T]he [PUC] is resolute in the necessity, especially at first and going forward, to proceed with a turn-key adoption of the FCC’s pole attachment regulations” so it can “meet the needs of Pennsylvania’s regulated community in a timely manner.”).

Respectfully submitted,

By: _____

Curtis L. Groves
Verizon
1300 I Street NW Suite 500E
Washington, DC 20005
(202) 515-2179
curtis.groves@verizon.com

Christopher S. Huther
Claire J. Evans
Frank Scaduto
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
(202) 719-7000
chuther@wiley.law
cevans@wiley.law
fscaduto@wiley.law

*Attorneys for Verizon Pennsylvania LLC and
Verizon North LLC*

Dated: February 3, 2026

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2026, I caused a copy of the foregoing Verizon's

Motion to Reopen to be served on the following (service method indicated):

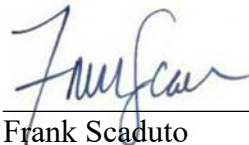
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9050 Junction Drive
Annapolis Junction, MD 20701
(by ECFS)

Rosemary McEnery
Anthony J. DeLaurentis
Federal Communications Commission
Enforcement Bureau
Market Disputes Resolution Division
445 12th Street, SW
Washington, DC 20554
(by ECFS and email)

Debbie-Anne A. Reese, Secretary
Carlos D. Clay, Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426
(by mail)

Thomas B. Magee
Timothy A. Doughty
Keller and Heckman LLP
1001 G Street NW
Suite 500 West
Washington, DC 20001
(by email)

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
Secretary's Bureau, 2nd Fl., Room-N201
400 North Street
Harrisburg, PA 17120
(by mail)



Frank Scaduto