



Federal Communications Commission  
Washington, D.C. 20554

May 13, 2011

Mr. Alexander Hunt  
Chief, Information Policy Branch  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
Washington, DC 20503

Dear Mr. Hunt:

In accordance with OMB's emergency processing rules, 5 C.F.R. §1320(13), the Federal Communications Commission (FCC or Commission) requests expedited review and approval under the Paperwork Reduction Act (PRA) of 1995, for new information collection requirements associated with sections 1.1420, 1.1422, and 1.1424 of the regulations in the attached *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future (Order)*, adopted by the Commission on April 7, 2011. We ask that this request for emergency approval be granted as soon as practicable to ensure that critical broadband deployment and corresponding job creation will not be delayed.

The *Order* revises the Commission's pole attachment rules to improve the efficiency and reduce the potentially excessive costs of deploying telecommunications, cable, and broadband networks, to accelerate broadband buildout. The prioritization to expedite broadband deployment flows from Congress' direction to the Commission to "encourage the deployment . . . of advanced telecommunications capability to all Americans" by removing barriers to infrastructure investment.<sup>1</sup> Congress has also expressed its desire to ensure that consumers in all regions of the country have access to advanced telecommunications and information services at rates that are just, reasonable and affordable.<sup>2</sup>

Expedited approval of the rules adopted in the *Order* that require information collection is essential to avoid public harm that would be caused by delay. First, sections 1.1420 and 1.1422 implement a self-effectuating timeline for attachment to poles. Specifically, the new pole attachment access rules create a series of deadlines under a four-stage timeline for communications providers to request and receive permission from utility pole owners to attach facilities to utility poles: (1) conduct the engineering study to determine whether and where attachment is feasible and what pole preparation, or make-ready, is required; (2) provide an estimate of make-ready charges; (3) acceptance of the estimate and payment; and (4) make-ready, which consists of the modification of poles or lines to accommodate additional facilities.

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<sup>1</sup> 47 U.S.C. § 1302(b) (section 706). Section 706 of the Telecommunications Act of 1996, Pub. L. No. 104-104, § 706, 110 Stat. 56, 153 (1996) (1996 Act), as amended in relevant part by the Broadband Data Improvement Act, Pub. L. No. 110-385, 122 Stat. 4096 (2008) (BDIA), is now codified in Title 47, Chapter 12 of the United States Code. See 47 U.S.C. §§ 1301 *et seq.*

<sup>2</sup> 47 U.S.C. § 254 (b)(1)-(3).



Compliance with this access requirement entails several paperwork activities. For example, any denial of access by a utility must include all relevant evidence and information, and explain how the evidence and information relate to lack of capacity, safety, reliability or engineering standards. During the make-ready stage, the utility must send letters of notification to any known entities with existing attachments and the requesting attacher. Such notification letters are sent when a make-ready schedule is established; if the make-ready period is interrupted; and if a pole owner asserts its right to one 15-day extension of time. Pole owners both perform and coordinate make-ready work. Other paperwork burdens include requiring utilities to post a list of approved contractors, which is an important part of the remedy in cases where the survey or make-ready work is not completed on time and attachers are permitted to engage utility-approved independent contractors to do the work.

The *Order* (at para. 21) found that adopting a specific timeline for processing pole attachment requests will give necessary guidance to both pole owners and attachers, offer certainty to attachers and allow them to make concrete business plans, and also generate jobs and help to move large broadband projects forward more expeditiously, including those providing broadband to schools under the Commission's E-rate program. The *Order* recognizes that pole attachments may be subject to excessive delays, including pervasive and widespread delays in survey work, delays in make-ready performance, delays caused by a lack of coordination of existing attachers, and other issues. Delay in approving these timeline rules would be particularly harmful to the public and job creation, where the record indicates that ARRA broadband stimulus grantees seek an enforceable timeline to meet the construction deadlines of the conditions of their grants.

Second, section 1.1424 provides an enforcement mechanism for an incumbent local exchange carrier (LEC) to file complaints to challenge whether a pole attachment rate is just and reasonable. The *Order* (at para. 199) finds incumbent LECs' recent decline in pole ownership relative to other utilities may have left incumbent LECs in an inferior bargaining position to them, and that in some circumstances, market forces and independent negotiations may not be alone sufficient to ensure reasonable rates for incumbent LECs' pole attachments. The *Order* (at para. 208) recognizes several consumer benefits arising from ensuring just and reasonable rates for incumbent LECs' attachments to other utilities' poles, including increased broadband deployment in areas where incumbent LECs currently do not provide broadband service. The pressing need to deliver increased broadband availability to the American public and associated job creation both in the construction phase and as a result of increased broadband availability, especially in rural areas, warrants rapid approval of this rule.

The Commission will publish a notice in the Federal Register seeking 15 days of public comment on the information collection requirements. The Commission is requesting that OMB approve the information collection requirements 30 days after the collection is received at the OMB. Please have your PRA Desk Officer contact Cathy Williams or Walt Boswell if he has any questions or requires any additional information.

Sincerely,



Mindy J. Ginsburg  
Deputy Managing Director