

# WPUDA supports preserving PUD utility pole attachment rates that are just, reasonable, non-discriminatory and sufficient to recover PUD costs



*WPUDA opposes any legislation or rule-making that would undermine existing state law and give the Federal Communications Commission greater authority over pole attachments.*

## **Preserve the public utility exemption in section 224 of the Communications Act**

Rates utilities charge telecommunications companies to attach equipment to power poles has emerged as part of the topic of promoting broadband deployment and WPUDA is highly concerned about recent draft legislation that would impact existing statute, undermining PUDs' ability to charge sufficient rates to recover costs and forcing ratepayers to subsidize private companies.

Currently, Federal Law (section 224 of the Communications Act) explicitly exempts public power utilities from FCC pole attachment regulations because Congress has consistently determined that "pole attachment rates charged by municipally-owned and cooperative utilities are already subject to a decision making process based upon constituent needs and interests." Section 224 of the Act also allows states to "reverse preempt" if the state decides to regulate pole attachments. As of today, 20 states plus D.C. have "reverse preempted" and set their own pole attachment regulations.

In Washington State, PUDs' pole attachment rates are based on a formula specified in state law. The law was passed in 2008 with the legislative intent to encourage joint use of utility poles by providing a consistent, cost-based formula for calculating rates that ensures PUD customers do not subsidize licensees.

A draft bill circulated by Senators Thune and Schatz in October that was intended to expand broadband infrastructure would revise federal law, negating the FCC exemption for public power utilities and enable the FCC to preempt state and local pole attachment laws and regulations. This would force PUD ratepayers to subsidize private companies with no assurance they will ever have access to the services these companies provide.

We believe the best path forward is not through prescriptive pathways that could put a financial burden on PUD ratepayers without guaranteeing any benefit to the communities they serve, but through a public and private cooperative effort, such as the work PUDs have already been doing in Washington State.

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