

Preserving the Municipal Exemption for pole attachments to ensure PUD and municipal utility customers are not forced to subsidize private businesses that are using publicly owned infrastructure



Support H.R. 530 and S. 2012 which will overturn FCC rules that undermine the ability of not-for-profit, community-owned PUDs to charge rates for pole attachments that are adequate to recover costs.

Protect the public utility exemption in section 224 of the Communications Act

PUD ratepayers shouldn't have to subsidize private companies: Rates that utilities charge telecommunications companies to attach equipment to power poles have emerged as part of the topic of promoting broadband deployment. WPUA is highly concerned about action taken by the FCC that undermines the ability of PUDs to charge sufficient rates for equipment attached to public utility poles, forcing PUD customers to subsidize private company pole attachments.

Existing law ensures PUD pole attachment rates are just, reasonable, non-discriminatory and sufficient to cover PUD cost: 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. In Washington State, PUD 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 ensure PUD customers do not subsidize licensees.

Congressional action is needed to prevent the FCC from forcing PUDs to charge rates that may not be adequate to cover costs: In September of 2018, the FCC issued a report and order asserting its authority to preempt state and local laws and agreements, including those related to pole attachments. FCC regulation of PUD pole attachment rates means PUDs could be forced to charge rates that are insufficient to cover costs, forcing customers to subsidize private companies. WPUA opposes this action as well as any legislative proposals that would shift regulation of community-owned utility poles to the FCC.

Bills to support: WPUA urges support for **H.R. 530**, the Accelerating Broadband Development by Empowering Local Communities Act of 2019, and **S. 2012**, the Senate companion, which overturn the FCC's report that allows the FCC to preempt state and local pole attachment laws and agreements.

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