

**Before the
STATE OF CONNECTICUT PUBLIC UTILITIES REGULATORY AUTHORITY**

PURA Investigation of Developments)
in the Third Party Pole Attachment Process) Docket No. 19-01-52
)
)

COMMENTS OF CTIA

CTIA¹ respectfully submits its comments in response to the Connecticut Public Utilities Regulatory Authority’s (“Authority’s”) Notice of Request for Written Comments entered July 22, 2019 (the “July Notice”) in the above-captioned docket.

I. INTRODUCTION

The July Notice references suggestions from commenters that the Authority consider allowing applicants to perform some or all of the survey and make-ready phases of the pole attachment process using approved contractors. The July Notice also states that the Authority is considering adopting such an approach, and requests proposals for modifying the existing attachment process.²

CTIA appreciates the Authority’s attention to this issue, as the existing attachment process³ is failing, threatening state deployment goals. The Authority’s process for small cell approvals is working well, but those approvals are of little value if approval of the applications to connect the fiber associated with small cells is delayed. The Authority’s focus on the survey and

¹ CTIA – The Wireless Association (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, and suppliers as well as app and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² See July Notice, at 1.

³ As used herein, “attachment process” refers to the application and approval process for attaching fiber backhaul to utility poles.

make-ready stages of the attachment process is appropriate, as industry experience to date reflects problems in both phases.

Accordingly, CTIA supports the Authority implementing self-help measures as suggested in the July Notice. Herein, CTIA makes specific recommendations regarding the current attachment process to help fix the system and get the State's pursuit of effective, efficient 5G network deployment back on track.

II. THE EXISTING ATTACHMENT PROCESS FOR FIBER BACKHAUL IN CONNECTICUT IS FAILING

As CTIA noted in previous filings before the Authority, there are numerous economic and social benefits for rapid 5G deployment in Connecticut, but only if that technological promise is accompanied by a streamlined regulatory framework that promotes such deployment.⁴ While the Authority and Legislature have made great strides in promoting the deployment of small cells in Connecticut, it is also important that the fiber backhaul which forms the backbone of telecommunications networks can be rapidly deployed as well. This backhaul makes up a significant portion of 5G deployment: according to research by Analysis Group, an estimated \$298 billion will be spent nationwide on capital expenditures for 5G infrastructure during the seven-year buildout period, and between \$130 and \$150 billion of that will be on fiber backhaul alone.⁵ Presently, however, all evidence indicates that the Authority's attachment process for such deployment is failing, threatening overall 5G deployment in Connecticut, and requiring immediate corrective action.

⁴ See, e.g., Written Comments of CTIA – The Wireless Association®, Docket No. 17-02-49 (April 21, 2017) at 2-3.

⁵ See Analysis Group, “The Economic Impacts of Reallocating High-Band Spectrum to 5G in the United States” (April 2019) at p. 4, available at <https://api.ctia.org/wp-content/uploads/2019/03/The-Economic-Impacts-of-Reallocating-High-Band-Spectrum-to-5G.pdf> (last accessed August 16, 2019) (citing Deloitte, “Communications infrastructure upgrade: The need for deep fiber,” July 2017, p. 13.)

Current Authority dockets illustrate the issues at hand. For example, in April 2019, a Verizon filing before the Authority stated that 77% of their applications for attachments in United Illuminating Company (“UI”) territory are stuck in “survey overdue” status, and another 21 applications (covering 1,721 poles) are in “Make-Ready” or “Make-Ready overdue” status.⁶ CTIA’s discussions with member AT&T have indicated that its affiliate, Teleport Communications America, LLC (“TCAL”), also has experienced substantial delays in obtaining pole attachment licenses; as of early August 2019, TCAL has 87 license applications in “survey overdue” status, with the average overdue application at 197 days old, and more than 290 active applications in “Make-Ready” status that are an average of 386 days old. A similar docket dealing with NetSpeed applications demonstrates significant utility delays as well.⁷ In sum, certain pole owners are so far behind on performing surveys that immediate intervention is required, and even when surveys are completed, attachers are being subject to additional delays during the make-ready phase.

These delays are significantly undermining attachers’ efforts to deploy fiber networks, and in turn, achievement of Governor Lamont’s stated goal of accelerating Connecticut’s access to high-speed internet services, as supported by recently enacted H.B. 7152, *An Act Accelerating the Deployment of 5G Wireless Facilities*.⁸ While the Authority has developed a commendable process for approval of small cell attachments, the approvals are of little value if the fiber to connect the facilities is not available due to delays in the attachment process.

⁶ See Motion No. 008, Request for Mediation by Authority Staff, Docket No. 18-03-37, Application of MCImetro Access Transmission Services Corp. for Approval to Install Facilities Within Certain Public Rights-of-Way (April 23, 2019).

⁷ See generally, Docket No. 18-04-20RE01, Application of NetSpeed, LLC for Approval of Installation of Facilities Under and Over Certain Public Rights-of-Way – Pole Attachment Dispute.

⁸ See also <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2019/06-2019/Governor-Lamont-Says-5G-Wireless-Technology-Is-on-the-Horizon-in-Connecticut> (last accessed August 16, 2019).

CTIA is also concerned that the Authority is taking a fragmented approach to addressing these problems, as evidenced by the recent proposed settlement filed in connection with the NetSpeed proceeding.⁹ While CTIA is heartened that this settlement clearly acknowledges the need for immediate changes to the make-ready process, steps the Authority takes to correct these delays should be in the form of immediate, effective, and widely applicable rules, rather than done in individual cases.

III. SPECIFIC RECOMMENDATIONS FOR THE AUTHORITY’S ATTACHMENT PROCESS

Experience to date shows that there are significant delays for attachers in both the survey and make-ready phases of attachment in Connecticut, and so the Authority’s revised attachment procedures should address both these phases.

The good news is that the Authority does not need to “reinvent the wheel” to address Connecticut’s issues with fiber backhaul deployment. Recent improvements to the pole attachment processes in nearby states provide good examples of concrete steps the Authority can take to support timely deployment. In Maine, for example, if the pole owner fails to complete a survey, rules authorize a requesting party to hire a contractor to complete the survey work, so long as the party provides the owner with 10 days’ written notice.¹⁰ Vermont is currently in the process of implementing rules fundamentally similar to the Federal Communications Commission’s (“FCC’s”) which allow for one-touch make-ready, which would significantly accelerate the make-ready process.¹¹ New Hampshire has also implemented rules regarding self-

⁹ See Joint Motion for Suspension of Briefing and Request for Technical Meeting at Attachment A, Docket No. 18-04-20RE01 (June 27, 2019).

¹⁰ See 65-407 Me. Code R. §880 (2)(A)(9); see also Docket No. 2017-00247, Maine Public Utilities Commission.

¹¹ See Petition of Vermont Department of Public Service for Rulemaking to Amend Public Utility Commission Rule 3.708, State of Vermont Public Utility Commission, Case Number 19-0252-RULE.

help for survey and make-ready work.¹² These initiatives in nearby jurisdictions demonstrate the usefulness of implementing self-help remedies for attachers at the state level. The Authority should move promptly to implement similar measures in Connecticut, using the FCC’s rules as a guide.

In the survey phase, the Authority should implement rules allowing attachers to use authorized contractors to undertake the necessary survey immediately upon application, in cases where no make-ready work is required. In cases where make-ready *is* required, the Authority should adopt the FCC’s regime for one-touch make-ready, with the attendant self-help remedies therein.¹³ But, at a minimum, when the pole owner knows with reasonable certainty that it cannot complete necessary make-ready construction, attachers should not be required to wait until expiration of the current 45-day period, and rather, should be authorized to do a temporary attachment immediately. While temporary attachments are still an imperfect solution, as they require two truck rolls for attachers, it at least enables attachments to get on the poles.

Failure to address the growing delays in Connecticut’s pole attachment process could have serious adverse economic consequences. Accordingly, the Authority needs to take immediate action to rectify the situation. In particular, reliance solely on workshops and working groups would be misplaced given the present circumstances. The Authority’s recent “overlapping” docket, which has taken over three years so far,¹⁴ illustrates the issues with such a process, but even in the present proceeding, there has been no discernible progress made in the six months following an extensive February workshop – indeed, based on the evidence, it

¹² See N.H. Code R. PUC 1303.12 *et seq.*; see also Docket No. DRM 17-139, New Hampshire Public Utilities Commission.

¹³ See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Third Report and Order and Declaratory Ruling, WC Docket No. 17-84 and WT Docket No. 17-79, FCC 18-11 (rel. Aug. 3, 2018).

¹⁴ See Docket No. 11-03-07.

appears the situation has gotten even worse for attachers. CTIA therefore asks that the Authority establish an aggressive procedural schedule to implement immediate changes to the pole attachment process.

IV. CONCLUSION

The significant delays in Connecticut's fiber backhaul attachment process require immediate action on the Authority's part to help ensure the necessary foundation for efficient 5G deployment in the state. CTIA urges the Authority to move promptly to implement the corrective measures described herein.

Respectfully submitted,

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CERTIFICATION

This is to certify that a copy of this submission has been sent to all participants of record via First Class Mail, postage prepaid or via electronic mail on this 16th day of August 2019. A copy also been filed with the Authority as an electronic web filing and is complete.



David W. Bogan, Esq.