COMMENTS OF CTIA

CTIA\(^1\) respectfully submits the following comments in response to the Maine Public Utilities Commission’s (“Commission’s”) Notice of Inquiry (“Notice”) and accompanying draft rule for discussion (“Draft Rule”) regarding amendments to Chapter 880 of the Commission’s Rules.

The Commission’s Draft Rule focuses on the implementation of one-touch make-ready (“OTMR”) provisions, which allow an attacher to perform all the necessary make-ready work for a pole if the attachment is relatively uncomplicated. CTIA enthusiastically supports these provisions, which have proven effective to promote efficiency for pole owners and attachers, and to reduce barriers to wireless deployment by decreasing siting delays.

CTIA’s only significant concern with the Draft Rule is ensuring adequate self-help remedies for attachers, particularly for small cells and other attachments outside the communications space. CTIA encourages the Commission to amend its rules to guarantee such

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\(^1\) 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.
remedies, which have already been implemented on the federal level and are appropriate to promote deployment and mirror existing Commission rules within the communications space.\(^2\)

**I. CTIA SUPPORTS THE COMMISSION’S ADOPTION OF OTMR PROVISIONS.**

CTIA supports the Commission’s continued work to remove barriers to wireless deployment by refining its pole attachment rules. Accordingly, CTIA strongly supports adoption of the OTMR provisions found in the Draft Rule, which will further that goal by ensuring that backhaul for wireless antenna is timely deployed.

As CTIA noted in the Commission’s previous proceedings to address modernization of Chapter 880, advanced wireless networks, including 5G networks, require increased deployment of small cell technology, increasing wireless capacity to meet the growing needs of consumer data consumption, and driving significant investment and job creation in Maine.\(^3\) Adoption of OTMR provisions will benefit that deployment, and align the Commission’s rules more closely with the Federal Communications Commission’s (“FCC’s”), which adopted OTMR rules in 2018.\(^4\)

Alignment of state and federal pole attachment policy promotes deployment efficiency and strikes an appropriate and court-tested balance between the rights of pole owners and the rights of attachers.\(^5\) Among the strengths of the FCC’s OTMR regime is that it puts the parties most interested in deployment – the attachers – in control of the process, rather than utilities that,

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\(^2\) In the Notice, the Commission also asked for input regarding its policies for abandoned joint use utility poles in the right of way. See Notice at 5. CTIA has no comments regarding this issue at the present time.

\(^3\) See, e.g., Comments of CTIA, Docket No. 2018-00010 (May 23, 2018) at 5 (noting Accenture estimates of 625 jobs created and a $102 million GDP growth from 5G in Portland, 299 jobs and $49 million GDP growth from 5G in Bangor, and 173 jobs and $28 million GDP growth from 5G in Augusta).


even if cooperative, lack the incentive to accommodate new attachers quickly.\textsuperscript{6} That said, the process still benefits utilities by reducing their workload while maintaining accepted safety standards. Furthermore, the FCC’s OTMR regime also reduces costs by having one party, rather than several parties, do make-ready work when possible.\textsuperscript{7} As the FCC has acknowledged, “OTMR is substantially more efficient for new attachers, current attachers, utilities, and the public.”\textsuperscript{8}

CTIA also supports the Draft Rule’s inclusion of the federal definitions for the “simple make-ready” / “complex make-ready” dichotomy,\textsuperscript{9} which are appropriate. To mirror these definitions and ensure clarity and consistency, CTIA recommends the Commission revise the language in Draft Rule 13(c)(ii) from “or causes an outage that is reasonably likely to interrupt service” to “or is reasonably likely to cause a service outage.” This amendment better reflects the language found in the federal definition of “complex make-ready,” and ensures that the Draft Rule does not contain differing standards that could create confusion in the future.

II. THE COMMISSION SHOULD ENSURE THE DRAFT RULE CONTAINS ADEQUATE SELF-HELP PROVISIONS

CTIA’s one significant concern with the Draft Rule, as written, is the limitation of self-help remedies in the event of pole owner delay only for attachments “in the communications space.”\textsuperscript{10} The Commission should expand self-help provisions to cover all attachments, no matter where they are located on the pole.

In most circumstances, the small cells that are integral for many 5G deployments are attached on poles outside the communications space. This makes them ineligible under the Draft

\textsuperscript{6} See FCC OTMR Order at ¶ 22.
\textsuperscript{7} See id. at ¶ 16.
\textsuperscript{8} Id. at ¶ 21.
\textsuperscript{9} See 47 C.F.R. §1.1042(p) and (q); Draft Rule at 1(H) and (X).
\textsuperscript{10} Draft Rule at 9(b).
Rule either for OTMR provisions (because, as wireless attachments, they are “complex make-ready”) or self-help remedies.

It is appropriate and advisable for the Commission to make self-help remedies available for attachments outside the communications space. At the same time it adopted OTMR provisions, the FCC made self-help remedies for survey and make-ready available for attachments anywhere on the pole.11 The FCC explained that such enhanced remedies would help accelerate 5G deployment, calling a complaint-based regime for delays above the communications space “an important but insufficient tool for encouraging compliance with our deadlines and speeding deployment.”12

To the extent that utilities have concerns about safety and equipment integrity, the Draft Rule addresses these, much as the FCC has. First, the Commission’s rules already contain a number of provisions to ensure safe work on poles and allow ample time during the survey process for pole owners’ concerns to be expressed and remedied.13 The Draft Rule also already includes a provision for lists of approved contractors from pole owners, ensuring that the pole owners have a say in who can perform this work safely.14 As noted by the FCC when it adopted enhanced self-help rules, “the utility will have full control over the contractor pre-approval process and therefore will be able to require that contractors who wish to be placed on the utility-approved list adhere to utility protocols for working in the electric space, even when the contractor is retained by a third-party communications attacher.”15 The Draft Rule also allows the pole owner to be present during self-help work, further ensuring adherence to safety

11 See FCC OTMR Order at ¶ 35.
12 FCC OTMR Order at ¶ 98 (emphasis added).
13 See, e.g., 65-407 C.M.R. ch. 880, §1(H) (establishing a communication worker safety zone), §2(A)(3) (permitting owners to deny pole access for specific reasons of safety or reliability), §3(A)(2) (requiring attachers to present evidence of technical capability before an attacher may be licensed).
14 Draft Rule at 10(a).
15 FCC OTMR Order at ¶ 99.
policies. Finally, as the FCC also noted, pole owners always have the option to avoid self-help remedies altogether simply by completing make-ready on time.

For those reasons, CTIA recommends amending Draft Rule 9(b) to remove the words “in the communications space,” which would make attachments anywhere on a pole eligible for the Commission’s self-help remedies in the event of pole owner delay.

III. CONCLUSION

The Commission’s continued work to remove barriers to deployment will help support an efficient 5G rollout in Maine for the benefit of wireless consumers. Accordingly, CTIA supports the Draft Rule, with the suggested amendments herein, and the Commission’s adoption of one-touch make-ready policies.

Respectfully submitted,

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16 See Draft Rule at 9(b).
17 See FCC OTMR Order at ¶ 99.