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May 29, 2018

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, NW
Washington, D.C., 20554

Re: *Accelerating Broadband Deployment, Broadband Deployment Advisory
Committee (BDAC), GN Docket 17-83*

Dear Secretary Dortch:

Please file the attached letter from the American Public Power Association in the above referenced docket.

Sincerely,

Sean A. Stokes

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May 29, 2018

Ms. Elizabeth Bowles, Chair
Broadband Deployment Advisory Committee
Federal Communications Commission

Re: *Accelerating Broadband Deployment, Broadband Deployment Advisory Committee (BDAC)*, GN Docket 17-83

Dear Chairwoman Bowles:

On behalf of the American Public Power Association (APPA),¹ I write to express our deep concerns about both the process and outcomes of the Federal Communications Commission's (FCC) Broadband Deployment Advisory Committee (BDAC) regarding issues of access to public power utility poles by broadband communications providers. While BDAC purports to be a representative body, its composition is so overwhelmingly comprised of private industry representatives that there can be no real suggestion that the "model" codes developed by BDAC are consensus documents that reflect the input and views of all stakeholders. Nor does BDAC include a single representative of a public power utility.

APPA shares BDAC's desire to expand broadband deployment, adoption, and use throughout the United States. Public power utilities understand and support efforts to deploy broadband, particularly in rural and underserved areas. APPA believes, however, that the BDAC's recommendations in the draft model codes related to pole attachments, if enacted, would have significant detrimental operational and financial impacts on utility operations.

The core purpose and function of public power utility poles are to support the safe and reliable distribution and delivery of electric services to their customers. The use of public power utility poles must always ensure the continued operational integrity, safety, and reliability of such electric facilities, electric services, personnel, and the public. This requires case-specific determinations that cannot be shoe-horned into a "one-size-fits-all" approach.

¹ APPA is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. APPA represents public power before the federal government to protect the interests of the more than 49 million people that public power utilities serve, and the 93,000 people they employ. Approximately 70 percent of APPA's members serve communities with less than 10,000 residents.

Access to utility poles involves a balancing of myriad competing interests and considerations. With respect to public power utility poles, Congress has repeatedly concluded that decisions regarding pole attachment rates and regulations are best made at the local level by the consumer-owners of the poles. State legislative bodies have similarly recognized this, which is why in more than half of the states that have adopted small cell wireless siting legislation over the past two years, public power facilities have been exempted from the scope of those laws.

The BDAC should not adopt and circulate biased model codes, under the imprimatur of the FCC, that would intrude upon and undermine existing state and local processes governing public power pole attachments. As drafted, the model codes would create top-down, one-size-fits-all attachment practices and procedures. These measures would compromise the safety and reliability of electric distribution infrastructure and would subsidize the private communications industry at the expense of public power utility customers. Furthermore, the BDAC model municipal code arbitrarily and capriciously seeks to impose a single set of pole attachment regulations on all public power utilities in clear contravention of the plain language of, and congressional rationale for, Section 224 of the Communications Act.

APPA also strongly opposes the creation of a centralized “Network Support Infrastructure Register” in each state, that would require all state and local government entities, including public power utilities, to provide maps and specifications of network routes, network architecture, and network support infrastructure assets. As an initial matter, there is no need for the creation of any such database, because it would be redundant and unnecessary. Public power utilities provide information on utility poles and other infrastructure to potential attaching entities that enter into non-disclosure agreements as part of entering into a pole attachment/conduit lease agreement. This is a straightforward process that has not, in the past, and should not, in the future, create any difficulties for attaching entities that have a bona fide interest in making attachments. Additionally, the creation of a publicly available registry or database of public power infrastructure poses clear security concerns – something about which the Commission should be far more sensitive to given potential threats to the electric grid. Moreover, the costs and burden of maintaining and updating such a database of infrastructure, particularly for small, not-for-profit entities with limited resources, would far exceed the value.

Finally, APPA opposes the requirement in Article 4 of the State Model Code that, if adopted by states, would require all public entities, including public power utilities, to make publicly owned dark fiber available to private entities at cost-based rates. This requirement is one-sided and overly intrusive.

Indeed, the very inclusion of Article 4 in the State Model Code illustrates the biased and one-sided composition of the BDAC membership. If there were such a compelling public policy need for access to fiber, then why is there not a similar requirement on the private communications providers that comprise the bulk of the BDAC? Perhaps the reason is that private broadband service providers have always vigorously resisted requirements that would give competitors wholesale access to their fiber. Moreover, this requirement would not only interfere with internal operational planning of public power utilities, but it would also effectively commandeer public assets for private commercial purposes in violation of private use restrictions on municipal bond-financed investments.

Public power utilities have every interest in ensuring that their communities obtain the full benefits of broadband deployment. They seek to accommodate and facilitate access to their poles and infrastructure by a wide variety of communications providers and other duly authorized attaching entities. Any such access, however, must not be allowed to take place in a manner that compromises the safety, security, and reliability of utility operations, or that would place additional financial or operational burdens on utility pole owners. Unfortunately, the model codes do not reflect balanced or consensus-driven public policy, but rather amount to a communications industry wish list that APPA strongly opposes.

Respectfully Submitted,

/s/ Desmarie M. Waterhouse

Vice President of Government Relations & Counsel

American Public Power Association
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