

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Accelerating Wireless Broadband Deployment)	WT Docket No. 19-250
by Removing Barriers to Infrastructure)	
Investment;)	
)	
Accelerating Wireless Broadband Deployment)	WC Docket No. 17-84
by Removing Barriers to Infrastructure)	RM-11849
Investment;)	
_____)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rules 1.415(e) and 1.46(b) of the Federal Communication Commission’s (FCC or Commission) rules and regulations,¹ the Edison Electric Institute (EEI), the National Rural Electric Cooperative Association (NRECA) and the Utilities Technology Council (UTC) (collectively the Trade Associations) submit this Motion requesting extensions of time for the filing of initial comments and reply comments in response to the Commission’s September 16, 2019 (Public Notice) in the above-captioned proceedings. In the Public Notice, the Wireless Telecommunications Bureau and Wireline Competition Bureau (Bureaus) seek comment on a Petition for Rulemaking filed by the Wireless Infrastructure Association (WIA), a Petition for Declaratory Ruling filed by WIA, and a Petition for Declaratory Ruling filed by CTIA.²

WIA’s Petition for Rulemaking and Petition for Declaratory Ruling ask the Commission to adopt new rules or clarify existing rules regarding Section 6409(a) of the Spectrum Act of

¹ 47 C.F. R. §§ 1.415(e) and 1.46(b).

² Wireless Infrastructure Association (WIA) Petition for Rulemaking (filed Aug. 27, 2019); WIA Petition for Declaratory Ruling (filed Aug. 27, 2019), CTIA Petition for Declaratory Ruling (filed September 6, 2019).

2012 (Section 6409).³ CTIA's Petition for Declaratory Ruling similarly seeks clarification of rules relating to Section 6409 and of rules implementing Section 224 of the Communications Act.⁴

Pursuant to the Public Notice, the Comment date is October 15, 2019 and the Reply Comment Date is October 30, 2019. This Motion requests that the Commission extend the Comment Date to Thursday, November 14, 2019 and the Reply Comment Date to Monday, December 16, 2019.⁵ EEI further requests expedited treatment on this Motion, including a shortened response date.⁶

I. Background

EEI is the trade association that represents all U.S. investor-owned electric companies. Collectively, EEI's members provide electricity for 220 million Americans, operate in all 50 states and the District of Columbia and directly and indirectly employ more than seven million people in communities across the United States. EEI's members invest more than \$100 billion each year to build a smarter energy infrastructure and to transition to even cleaner generation resources. Electric companies are among the nation's largest users of communications services and operate some of the largest private communications and pole infrastructure networks.

Therefore EEI has filed comments with the Commission in various proceedings affecting the

³ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, title VI, § 6409(a), 126 Stat. 156 (Feb. 22, 2012) (Spectrum Act) (codified at 47 U.S.C. § 1455(a)). The rule, 47 CFR § 1.6100, was originally codified as 47 CFR § 1.40001, *see Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, 29 FCC Rcd 12865 (2014), *aff'd*, *Montgomery County v. FCC*, 811 F.3d 121 (4th Cir. 2015); and was later redesignated as § 1.6100 (with no substantive changes). *See* 83 FR 51697, 51886 (Oct 15, 2018).

⁴ 47 U.S.C. § 224.

⁵ Given that Thursday, November 28 is Thanksgiving, a national holiday, the FCC should set the Reply Comment Date for Monday, December 16, 2019.

⁶ EEI requests that the Commission ask for responses to this filing be submitted within one week of the filing date.

interests of its members.⁷ Accordingly, EEI is an interested party and appreciates the opportunity to meaningfully participate in this proceeding.

NRECA is the national trade association representing nearly 900 local electric cooperatives operating in 48 states. America's electric cooperatives power over 20 million businesses, homes, schools and farms across 56 percent of the nation's landmass and serve one in eight (42 million) consumers. NRECA's member cooperatives include 62 generation and transmission (G&T) cooperatives and 831 distribution cooperatives. The G&T cooperatives generate and transmit power to distribution cooperatives that provide it to the end-of-the-line co-op consumer-members. Collectively, G&T cooperatives provide power to nearly 80 percent of the nation's distribution cooperatives. The remaining distribution cooperatives receive power from other generation sources within the electric sector. Both distribution and G&T cooperatives share an obligation to serve their members by providing safe, reliable and affordable electric service. NRECA's member cooperatives include cooperatives that are Registered Entities with compliance obligations under Reliability Standards established by NERC to ensure the reliability of the BPS. In addition, cooperatives own and operate substantial local distribution facilities and are responsible for the reliability and security of their local distribution systems.

UTC is the international trade association for the telecommunications and information technology interests of electric, gas and water utilities and other critical infrastructure industries. UTC's members include large investor-owned electric companies who serve millions of customers across multi-state service territories, as well as smaller rural electric cooperative and public power utilities, which may serve only a few thousand customers in isolated communities

⁷ EEI participated actively in the rulemakings that resulted in the Commission's 2010, 2011, 2015 and 2018 orders interpreting Section 224 of the Communications Act. 47 U.S.C. § 224

or remote areas. UTC's members own, manage and control extensive infrastructure that they use to support the safe, reliable and secure delivery of essential services to the public at large.

II. Request for Extension of Time

CTIA's Petition for Declaratory Ruling asks the Commission to clarify the terms "concealment element," "equipment cabinet," and "base station" in the FCC's rules, and to clarify that when an application is "deemed granted" under Section 6409, so that applicants may lawfully construct even if the siting authority has not issued construction permits. With respect to Section 224, CTIA asks the Commission to: (1) determine that the definition of the term "pole" in Section 224 includes light poles; (2) conclude that utilities may not impose blanket prohibitions on access to certain parts of the pole; and (3) clarify that utilities may not ask attachers to accept terms and conditions that are inconsistent with the Commission's rules.

WIA's Petition for Rulemaking asks the Commission to amend its rules to reflect that collocations requiring an expansion of the current site—within 30 feet of a tower site—qualify for relief under Section 6409(a) and to require that fees associated with eligible facilities requests under Section 6409 be cost-based. WIA's Petition for Declaratory Ruling further asks the Commission to clarify: (1) that Section 6409(a) and FCC related rules apply to all state and local authorizations; (2) when the time to decide an application begins to run; (3) what constitutes a substantial change under Section 6409(a); (4) that "conditional" approvals by localities violate Section 6409(a); and (5) that localities may not establish processes or impose conditions that effectively defeat or reduce the protections afforded under Section 6409(a).⁸

⁸ 47 CFR §§ 1.6100(b) and (c). WIA also seeks clarification of the meaning of phrases in the rule such as "separation from the nearest antenna," "equipment cabinets," and "outside the current site." 47 CFR §§ 1.6100(b)(7)(i), (b)(7)(iii)-(iv).

Given the range of issues presented, the Trade Associations make this request to ensure that there is sufficient time to conduct consultations with respective member companies and to prepare reasoned comments that meaningfully address the broad range of complex issues presented in these dockets. The issues raised present a broad set of new policy issues and complex factual allegations that require careful deliberation by the electric utility industry so that the Commission can make an informed decision whether and to what extent to proceed forward on the issues that are raised in the petitions. Furthermore, in light of the volume and size of past filings in response to proposals in this proceeding, as well as the invitation in the Public Notice for parties to submit “factual data and economic analysis” of the costs and benefits of the specific declaratory rulings,⁹ additional time is merited to allow all interested parties adequate and appropriate time to respond.

While the Commission does not routinely grant motions for extension of time,¹⁰ in previous pole attachment proceedings, the Commission has granted extensions of the Initial Comment¹¹ and Reply Comment periods.¹² In this proceeding, the proposed extension of time will not prejudice any other party or impact the Commission’s ability to consider the issues. Moreover, Monday, September 30, Tuesday October 1, and October 8 are the Jewish high holidays. This leaves very little time to respond to the Public Notice. Moreover, given that

⁹ See Public Notice at 2.

¹⁰ 47 C.F. R. §1.46(b).

¹¹ See, e.g., *Amendment of Rules and Policies Governing Pole Attachments*, CS Docket No. 97-98, Order, DA 97-984, released April 29, 1997 (granting a 45-day extension of the comment period, where a 60-day extension had been requested).

¹² See, e.g., *Implementation of Section 703(e) of the Telecommunications Act of 1996 and Amendment of the Commission’s Rules and Policies Governing Pole Attachments*, CS Docket No. 97-151, Order, DA 97-2181, released October 10, 1997 (granting an additional week for the reply comments, instead of the requested two-week extension, due to a statutory deadline faced by the Commission).

Thanksgiving is a major national holiday, extending the Reply Comment deadline to Monday, December 16, 2019, will also not result in any meaningful delay in this proceeding. The Trade Associations believe that the end result of granting this request will be more focused, better reasoned comments.

III. Conclusion

WHEREFORE, for the foregoing reasons, the Trade Associations respectfully request the Commission to grant this motion to extend the Comment Date to Thursday, November 14, 2019 and the Reply Comment Date to Monday, December 16, 2019.

Respectfully submitted,

EDISON ELECTRIC INSTITUTE

/s/ Aryeh B. Fishman

Aryeh B. Fishman

Associate General Counsel, Regulatory Legal
Affairs

Edison Electric Institute

701 Pennsylvania Avenue NW

Washington, D.C. 20004

afishman@eei.org

UTILITIES TECHNOLOGY COUNCIL

Brett Kilbourne

Vice President, Policy, and General Counsel

Utilities Technology Council

2511 Jefferson Davis Highway

Suite 960

Arlington, VA 22202

brett.kilbourne@utc.org

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION

Brian O'Hara

Senior Director Regulatory Issues – Telecom &
Broadband

National Rural Electric Cooperative Association
4301 Wilson Blvd.
Arlington, VA 22203
brian.ohara@nreca.coop

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