

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

In the Matter of)	
)	
Amendment of Procedural Rules Governing)	EB Docket No. 17-245
Formal Complaint Proceedings Delegated to the)	
Enforcement Bureau)	
)	

REPLY COMMENTS OF USTELECOM ASSOCIATION

USTelecom respectfully submits these reply comments in the above-referenced rulemaking proceeding, which seeks comment on “creating a uniform set of procedural rules for certain formal complaint proceedings delegated to the Enforcement Bureau” by streamlining and consolidating three separate sets of procedural rules that address section 208 formal complaints, section 224 pole attachment complaints, and disability access complaints.¹ We join other commenters in supporting this effort by the Federal Communications Commission (Commission) to eliminate confusion and unnecessary inconsistencies in its formal complaint rules,² and agree that having consistent rules will facilitate the prompt and efficient resolution of formal complaints.

¹ *Amendment of Procedural Rules Governing Formal Complaint Proceedings Delegated to the Enforcement Bureau*, Notice of Proposed Rulemaking, EB Docket No. 17-245 (rel. Sep. 18, 2017).

² See, e.g., Comments of CenturyLink, WC Docket No. 17-245, at 1 (Oct. 26, 2017) (CenturyLink Comments); Comments of the Edison Electric Institute, WC Docket No. 17-245, at 2 (Oct. 26, 2017) (EEI Comments) (strongly supporting the goals of decreasing confusion and increasing efficiency in resolving pole attachment complaints).

Shot Clocks Will Ensure Efficient Adjudication of All Formal Complaints.

As recognized by commenters, a shot clock is a proven efficient and prompt way to resolve complaints.³ We strongly encourage the Commission to adopt a shot clock for all formal complaints, and believe that a 180-day shot clock, consistent with the five month statutory requirement to resolve certain complaints under section 208(b) related to the lawfulness of certain tariffed matters, would be appropriate for most formal complaints, including those not already under a deadline. As an alternative, a longer shot clock similar to the forbearance proceeding deadline might be appropriate for more complex proceedings.⁴

Electric Company Claims Opposing Shot Clocks for Pole Attachment Complaints Lacks Merit.

The electric companies collectively filed comments opposing a reasonable shot clock for pole complaints,⁵ or supporting a shot clock that would start not when the complaint is filed, but after the case is fully briefed.⁶ The latter option would potentially extend some proceedings well beyond the reasonable 180-day time period supported by many commenters. A default shot clock of 180 days for all complaints, including pole complaints, would ensure a swift, efficient process for resolution. For complex complaints that warrant more time, the Commission could pause the shot clock to allow for additional time on a case-by-case basis.⁷

A 180-day shot clock is particularly important for pole attachment complaints because power companies routinely request extensions and discovery that extend pole attachment

³ See, e.g., Comments of Verizon, WC Docket No. 17-245, at 2 (Oct. 26, 2017) (Verizon Comments).

⁴ See, e.g., CenturyLink Comments at 2-3.

⁵ Comments of Centerpoint Energy Houston Electric, WC Docket No. 17-245, at 2 (Oct. 26, 2017) (Centerpoint Comments).

⁶ EEI Comments at 6.

⁷ See Verizon Comments at 2-3.

complaint proceedings,⁸ despite the Commission’s policy that “extensions of time shall not be routinely granted.”⁹ The commenting electric companies propose additional discovery,¹⁰ mini-trials,¹¹ depositions,¹² and other procedural steps¹³ that would slow down pole complaints, imposing additional expenses and time, possibly discouraging carriers from pursuing complaints at the Commission, and forcing carriers to endure unjust and unreasonable conditions while delayed proceedings play out. Thus, the Commission should adopt its proposal for a 180-day shot clock that starts when a pole attachment complaint is filed, consistent with the shot clock applicable to pole access complaints it proposes to adopt at the November Open Agenda meeting in the *Accelerating Wireline Broadband Deployment* proceeding.¹⁴

⁸ See Comments of Verizon, WC Docket No. 17-84, at 15-16 (Jun. 15, 2017).

⁹ 47 C.F.R. § 1.46.

¹⁰ See EEI Comments at 3-4.

¹¹ Initial Comments Regarding the Commission’s Notice of Proposed Rulemaking Regarding Amendment of Procedural Rules Governing Formal Complaint Proceedings, WC Docket No. 17-245, at 5 (Oct. 26, 2017) (Electric Utilities Comments).

¹² Centerpoint Comments at 2; Electric Utilities Comments at 5.

¹³ See, e.g., Centerpoint Comments at 2 (proposing requests for production and requests for admission).

¹⁴ See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, FCC-CIRC1711-04, ¶¶ 9-11 (rel. Oct. 26, 2017).

Finally, we also strongly encourage the Commission to initiate a broader overhaul of its enforcement procedures to ensure consistency, due process, and transparency in every aspect of the enforcement process.

Respectfully submitted.

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