

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

In the Matter of	)	
	)	
Implementation of Section 224 of the Act	)	WC Docket No. 07-245
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51

**COMMENTS OF PCIA – THE WIRELESS INFRASTRUCTURE ASSOCIATION AND  
THE HETNET FORUM**

PCIA – The Wireless Infrastructure Association and The HetNet Forum (“PCIA”)<sup>1</sup> respectfully submit these comments in response to the Wireline Competition Bureau’s May 6, 2015 *Public Notice* in the above-captioned proceedings.<sup>2</sup> For the reasons set forth below, PCIA supports the Petition for Reconsideration or Clarification (“Petition”) jointly filed by the National Cable and Telecommunications Association, COMPTTEL, and tw telecom inc. (collectively, “Petitioners”).<sup>3</sup> In particular, the Commission should clarify or amend its rules to

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<sup>1</sup> PCIA – The Wireless Infrastructure Association is the principal organization representing the companies that build, design, own and manage telecommunications facilities throughout the world. Its over 200 members include carriers, infrastructure providers, and professional services firms. The HetNet Forum, formerly The DAS Forum, is dedicated to the advancement of heterogeneous networks. HetNets provide increased network coverage, capacity and quality through the use of a variety of infrastructure and technology, enabling seamless voice and data communications. The HetNet Forum is a membership section of PCIA – The Wireless Infrastructure Association.

<sup>2</sup> Public Notice, *Parties Asked to Refresh Record Regarding Petition to Reconsider Cost Allocators Used to Calculate the Telecom Rate for Pole Attachments*, DA 15-542 (WCB rel. May 6, 2015) (“*Public Notice*”), summarized, 80 Fed. Reg. 27626 (May 14, 2015).

<sup>3</sup> Petition for Reconsideration or Clarification of the National Cable and Telecommunications Association, COMPTTEL, and tw telecom inc., WC Docket No. 07-245, GN Docket No. 09-51 (filed June 8, 2011) (“*Petition*”).

eliminate certain anomalies in the “telecom” attachment rate that may result when the actual number of attaching entities on a pole differs from the number of attaching entities presumed under the Commission’s pole attachment rules.

## **DISCUSSION**

The importance of the Commission’s pole attachment rules to PCIA’s membership is a matter of public record. For example, since adoption of the Commission’s 2011 Report and Order and Order on Reconsideration in WC Docket No. 07-245 (“*Pole Attachment Order*”),<sup>4</sup> distributed antenna system (“DAS”) providers have observed increased efficiencies in the pole attachment process, including lower, more equitable attachment rates, increased use of pole tops, and improved predictability in the design and implementation of DAS.<sup>5</sup> The *Pole Attachment Order* also has proven to be a critical tool for PCIA’s members when working with the minority of utilities who have historically been reluctant to provide pole access to wireless service providers.<sup>6</sup> Although all of the difficulties with the pole attachment process have not been resolved, the *Pole Attachment Order* has helped to facilitate dispute resolution and promote more rapid deployment of new wireless services.

The Petition is another step in the right direction. The Petitioners’ core objective is sound, *i.e.*, ensuring that the Commission achieves its goal of producing telecom attachment rates that

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<sup>4</sup> See *Implementation of Section 224 of the Act, a National Broadband Plan for Our Future*, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240 (2011) (“*Pole Attachment Order*”).

<sup>5</sup> See Letter from D. Zachary Champ, Government Affairs Counsel, PCIA – The Wireless Infrastructure Association, WC Docket No. 07-245 *et al.*, at 1 (Mar. 26, 2012).

<sup>6</sup> *Id.* at 2.

“generally will recover the same portion of pole costs as the current cable rate.”<sup>7</sup> To that end, the Petition identifies scenarios in which the telecom attachment rate may substantially exceed the cable attachment rate if the number of actual attachers on a pole is less the number of attachers presumed under Section 1.417(c) of the Commission’s rules.<sup>8</sup> “For example, using 2.6 as the number attaching entities, as one utility has done in calculating its telecom pole attachment rates, the rate formula adopted by the Commission would result in a telecom rate that is *70 percent higher* than the cable rate for most poles.”<sup>9</sup>

To eliminate the anomalies discussed in the Petition, the Commission can and should modify its pole attachment rate formula. Such action will serve the public interest by providing attaching entities and pole owners with greater rate certainty, thereby minimizing the potential for disputes where use of Section 1.417(c)’s presumptive number of attachers results in an unintended disparity between the telecom attachment rate and the cable attachment rate. PCIA looks forward to reviewing the refreshed record submitted in response to the *Public Notice*, but in the interim the proposed rule clarifications or amendments suggested by the Petitioners are a good starting point for further discussion.<sup>10</sup> In all cases, however, the Commission should make

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<sup>7</sup> Petition at 4 (quoting *Pole Attachment Order*, 26 FCC Rcd at 5244 ¶ 8).

<sup>8</sup> 47 C.F.R. § 1.417(c) (presuming an average of three attaching entities in non-urban areas and five attaching entities in urban areas).

<sup>9</sup> Petition at 5-6 (footnotes omitted) (emphasis in original); *see also id.* at Attachment A.

<sup>10</sup> The Petitioners have recommended that the rules be clarified or amended by specifying the cost allocator to be applied based upon the number of attaching entities, as set forth in Attachment B of the Petition. *See* Petition at 6. As an alternative, the Petitioners suggest that the Commission set the maximum “just and reasonable rate” as the higher of the rate yielded by the cable rate pursuant to Section 1.1409(e)(1) of the FCC’s rules or the “lower bound” telecom rate obtained by excluding capital costs from the definition of “cost of providing space” in the existing telecom rate formula of Section 1.1409(e)(2). *Id.* at 7.

clear that the benefits of any rule clarification or amendment adopted in response to the Petition will be equally available to both wireline and wireless telecommunications providers.

### **CONCLUSION**

For the foregoing reasons, PCIA supports the Petition and urges the Commission to act expeditiously thereon.

Respectfully submitted,

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