

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter Of )  
 )  
Accelerating Wireline Broadband ) WC Docket No. 17-84  
Deployment by Removing Barriers to )  
Infrastructure Investment )  
 )

**OPPOSITION OF THE  
SCHOOLS, HEALTH & LIBRARIES BROADBAND (SHLB) COALITION  
to the  
EDISON ELECTRIC INSTITUTE PETITION FOR RECONSIDERATION  
February 13, 2024**

The Schools, Health & Libraries Broadband (SHLB) Coalition respectfully files these comments in opposition to the Petition for Reconsideration filed by the Edison Electric Institute (EEI) in the above-captioned proceeding. SHLB rebuts the EEI Petition’s effort to change the “Grandfathered Pole Ruling” issue, which we believe the Commission resolved correctly in the Fourth Report and Order and Declaratory Ruling in this docket.

The SHLB Coalition’s mission is to promote open, affordable, high-quality broadband to anchor institutions and their communities in support of bridging the digital divide.<sup>1</sup> At a time

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<sup>1</sup> The SHLB Coalition is a public interest coalition consisting of more than 300 member organizations. SHLB Coalition members include representatives of schools, libraries, health care providers and telehealth networks, state broadband offices, private sector companies, state and national research and education networks, consulting firms and consumer organizations. See <http://shlb.org/about/coalition-members> for a current list of SHLB Coalition members.

when access to high-speed internet is imperative for functioning societies to thrive, this goal has never been more important. The Covid-19 pandemic brought further attention to the importance of fast and reliable internet as more Americans rely upon telehealth services, remote learning, and telework. Many families, schools, libraries, and healthcare facilities, however, are located in areas where new broadband infrastructure is unavailable, difficult, or costly to obtain at the rate necessary to solve their urgent needs. Leveraging existing infrastructure such as utility poles can reduce the costs of deployment and help to solve this digital disparity.

**I. THE COMMISSION SHOULD REJECT EEI'S REQUEST TO STRIKE OR ALTER THE TREATMENT OF GRANDFATHERED POLES.**

The Edison Electric Institute makes a curious argument that the Commission should change the Declaratory Ruling regarding grandfathered poles. The Commission's Declaratory Ruling found that, when an attacher requests access to a pole that is out of compliance with current safety standards, replacing the pole is "not necessitated solely" by the attacher's request. EEI maintains that the Commission's finding should be stricken because a "grandfathered" pole is actually in compliance with rules and policies. This argument seems incompatible with the traditional meaning of "grandfathered", which is to exempt something from a new rule or policy by allowing it to remain operating under the previous rule or policy. A "grandfathered" pole is by definition *not* in compliance with current rules. Thus, as the Commission correctly concluded, the pole replacement is not necessitated solely by the new attachment. If a formerly grandfathered pole is upgraded to comply with current rules or policies, the pole owner and its customers will benefit from that upgrade. Thus, it is perfectly logical for the pole owner to bear some portion of that cost.

EEI further makes the exaggerated claim that the FCC failed to consider the “enormous economic burden” placed on pole owners as a result of this grandfathered pole ruling. This bit of drama is also unfounded because, as EEI acknowledges, the Commission has not yet determined how much of the pole replacement cost should be allocated to the pole owner and attacher. All the Commission has decided is that the attacher should not bear the entire cost, but it has not (yet) determined whether the owner of the “grandfathered” pole is responsible for 1%, 99% or something in between. When the Commission determines or recommends the proper amount of cost to be allocated to the parties, then perhaps EEI could have an argument that the burden is “enormous”, but until then EEI’s point is inapt.

It is also worth noting that the Canadian Telecommunications Authority decided last year that pole owners should be responsible for the costs of bringing a pole up to current standards. While there are certainly differences between the Canadian and American regulatory regimes, an FCC order requiring pole owners to bear a portion or all of these costs would not be out of the ordinary.<sup>2</sup>

For all these reasons, we respectfully suggest that the Commission should deny EEI’s petition for reconsideration on the treatment of grandfathered poles and instead should treat the EEI Petition as supporting the need for the Commission to clarify the allocation of pole replacement costs.

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<sup>2</sup> See, Telecom Regulatory Policy CRTC 2023-31, Feb. 15, 2023, available at <https://crtc.gc.ca/eng/archive/2023/2023-31.htm>. (“Therefore, to prevent anti-competitive behaviour, ILECs should not be able to deny an application due to the lack of capacity caused by a pole not being up to construction standards, and they should have to bring all poles subject to an attachment request to such standards, at their own cost. . . . In light of the above, the Commission determines that new attachers are not responsible for the costs associated with corrective work, to the extent that poles or third-party equipment are not in compliance with construction standards.”)

Respectfully submitted,



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