

The Honorable Anna Eshoo
United States House of Representatives
202 Cannon House Office Building
Washington, DC 20515

March 1, 2019

Dear Representative Eshoo:

We the undersigned strongly support H.R. 530, the Accelerating Wireless Broadband Development by Empowering Local Communities Act of 2019, to overturn actions by the Federal Communications Commission (FCC or Commission) that are in violation of the Communications Act of 1934. The FCC's assertion of authority over public power pole attachments is in plain contravention of section 224 of the Communications Act that explicitly prevents the Commission from regulating attachments to public power electric utility poles.

On September 26, 2018, the Commission adopted its Declaratory Ruling and Third Report and Order (Report and Order). In it, the FCC asserts that it can preempt state and local laws or requirements governing access to public right-of-way (ROW) and publicly-owned infrastructure within the ROW, including rates, terms, or conditions of pole attachment agreements, using sections 253 and 332 of the Communications Act. Section 253 seeks to promote competition for telecommunications services by barring state and local barriers to entry. Section 332 gives the FCC exclusive jurisdiction over mobile communications services and provides telecommunications companies with nondiscriminatory access to state and local ROW. Neither section 253 nor section 332 has anything to do with pole attachments, which are exclusively governed by section 224.

In adopting the Report and Order, the FCC claims its actions will "remove regulatory barriers that would unlawfully inhibit the deployment of infrastructure necessary to support...new [broadband] services." Yet the Commission provided no empirical evidence of public power utilities being a barrier to broadband deployment because of pole attachment rates or regulations. Instead, it arbitrarily imposes federal, one-size-fits-all pole attachment regulations on public power utility poles. This regulatory overreach by the Commission to regulate public power utilities using sections 253 and 332 of the Communication Act limits the ability of public power utilities to responsibly and equitably manage their electric utility poles, and it is contrary to the clear exemption in section 224 and the express intent of Congress.

The Commission's actions also ignore legitimate concerns related to the placement of communications infrastructure on public power utility poles. For example, accommodating wireless attachments above the electric line may create lineworker safety issues and may run afoul of lineworker safety standards such as the National Electric Safety Code (NESC), which is mandatory in some states. In addition, small cells and accompanying infrastructure may be too heavy or large for existing public power utility poles, and if existing poles cannot support this additional infrastructure, poles may break, fall, or otherwise cause electric reliability concerns. Finally, wireless attachments may cause radio frequency interference to utility systems, which also may affect electric reliability.

Public power utilities provide reliable and affordable electricity to over 49 million Americans. We strongly support repealing the Commission's Report and Order, which we believe exceeds the FCC's authority under the Communications Act to the detriment of public power utility customers. We greatly

appreciate you introducing this legislation to overturn the Commission's unlawful actions to regulate public power pole attachments. We look forward to working with you to advance this important legislation.

Sincerely,

American Public Power Association
City of Palo Alto Utilities Department, CA
California Municipal Utilities Association, CA
Northern California Power Agency, CA
Southern California Public Power Authority, CA
Sacramento Municipal Utility District, CA
Lakeland Electric, FL
Washington Public Utility Districts Association, WA
JEA (Jacksonville), FL
Kansas Power Pool, KS
San Francisco Public Utilities Commission, CA
City of Wauchula, FL
Idaho Falls Power, ID
Greenville Utilities Commission, NC
Princeton Public Utilities, MN
Turlock Irrigation District, CA
Electric Cities of Georgia, Inc. (ECG), GA
Keys Energy Services, FL
Mason County PUD #3, WA
Beaches Energy Services, FL
Fort Pierce Utilities Authority, FL
Seattle City Light, WA
Roseville Electric Utility, CA
Muscatine Power & Water, IA
Athens Utilities Board, TN
Florida Municipal Electric Association, FL
Florida Municipal Power Agency, FL
Redwood Falls Public Utilities, MN
Spring Valley Public Utilities, MN

Minnesota Municipal Utilities Association, MN
Southern Minnesota Municipal Power Agency, MN
Crisp County Power Commission, GA
Tennessee Municipal Electric Power Association, TN
City of Ellinwood, KS
Shawano Municipal Utilities, WI
Rochester Public Utilities, MN
Oregon Municipal Electric Utilities Association, OR
Austin Utilities, MN
Vernon Public Utilities, CA
Chelan PUD, WA
Zeeland Board of Public Works, MI
Sioux Center Municipal Utilities, IA
Bristol Tennessee Essential Services (BTES), TN
Arizona Municipal Power Users' Association, AZ
City of Acworth, GA
City of Adel, GA
City of Albany, GA
City of Blakely, GA
City of Cairo, GA
City of Camilla, GA
City of Cartersville, GA
City of College Park, GA
City of Commerce, GA
City of Covington, GA
City of Grantville, GA

Public Power Utilities Support H.R. 530
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City of Jackson, GA
City of Monroe, GA
City of Sylvania, GA
City of Thomasville, GA
City of West Point, GA
City of Calhoun, GA
City of Tallahassee, FL
City Utilities of Springfield, MO
Kissimmee Utility Authority, FL
CPS Energy, TX
Utah Associated Municipal Power Systems, UT,
CA, ID, NV, NM, WY
Salt River Project, AZ
Omaha Public Power District, NE
Los Angeles Department of Water & Power, CA
New York Association of Public Power, NY
Jamestown Board of Public Utilities, NY
Massena Electric Department, NY
Village of Rockville Centre Electric Utility, NY
Sherrill Power and Light, NY
Greenport Municipal Utilities, NY
Sherburne Municipal Electric, NY
Salamanca Board of Public Utilities, NY
City of Ashland Electric Utility, OR
City of Lucas, KS
Kansas Municipal Utilities, KS
American Municipal Power (AMP), OH, PA,
MI, KY, VA, WV, IN, MD, DE
Ohio Municipal Electric Association, OH
Evansville Water & Light, WI
City of Burlington, KS
Tacoma Public Utilities, WA
Owatonna Public Utilities, MN
Illinois Municipal Utilities Association, IL
Illinois Municipal Electric Agency, IL
Northeast Public Power Association, CT, ME,
MA, NH, RI, VT
Colorado Association of Municipal Utilities, CO
Alabama Municipal Electric Authority, AL
City of Perry, OK
Ponca City Utility Authority, OK
Arkansas River Power Authority, CO
Oklahoma Municipal Power Authority, OK
City of Pryor Municipal Utility Board, OK
Laverne Public Works Authority, OK
Missouri River Energy Services, SD, IA, MN,
ND
Grant County PUD, WA
City of Mulvane, KS
Municipal Electric Utilities of Wisconsin, WI
Lincoln Electric System, NE
WPPI Energy, WI, MI, IA
City of Yale, OK
Blooming Prairie Public Utilities, MN
City of Weiser, ID
Blue Ridge Power Agency, VA
Town of Bedford Electric Department, VA
Danville Utilities, VA
City of Martinsville Electric Department, VA
City of Salem Electric Department, VA
City of Radford Electric Department, VA
Town of Richlands Electric Department, VA
Virginia Tech Electric Service, VA
City of Frederick, OK
Hope Water and Light, AR
Tennessee Valley Public Power Association,
AL, GA, TN, MS, KY, NC, VA
City of Rock Falls, IL
City of Carlyle, IL
City of Princeton, IL
City of Mascoutah, IL

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City of Altamont, IL

City of Carmi Municipal Electric Utilities, IL

City of Farmer City, IL

City of Breese Municipal Utilities, IL

Municipal Electric Systems of Oklahoma, OK

Rochelle Municipal Utilities, IL

Texas Public Power Association, TX

City of Springfield Office of Public Utilities, IL

Village of Ladd, IL

Edmond Electric, OK

Cc: The Honorable Frank Pallone
The Honorable Greg Walden
The Honorable Michael Doyle
The Honorable Bob Latta