

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

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

**REPLY COMMENTS OF THE AMERICAN CABLE ASSOCIATION
ON THE FURTHER NOTICE OF PROPOSED RULEMAKING**



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I. INTRODUCTION AND SUMMARY

The American Cable Association (“ACA”)¹ hereby provides reply comments supporting the proposal in the Federal Communications Commission’s (“Commission”) Further Notice of Proposed Rulemaking (“*FNPRM*”)² to codify Commission precedent allowing cable operators and telecommunications service providers to overlash³ to existing facilities without needing to file a pole attachment application or otherwise obtain a utility’s advance approval or pay

¹ ACA represents approximately 750 smaller cable operators and other local providers of broadband Internet access, voice, and video programming services to residential and commercial customers. These providers pass approximately 18.2 million households of which 7 million are served. Many of these providers offer service in rural communities and more remote areas.

² *Accelerating Wireline Broadband by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, FCC 17-154 (“*FNPRM*”)

³ Under Commission precedent, overlanding is a process “whereby a service provider physically ties its wiring to other wiring already secured to the pole, [and] is routinely used to accommodate additional strands of fiber or coaxial cable on existing pole attachments.” *Implementation of Section 703(e) of the Telecommunications Act of 1996, Amendment of the Commission’s Rules and Policies Governing Pole Attachments*, CS Docket No. 97-151, Report and Order, 13 FCC Rcd 6777, 6805, para. 59 (1998) (“*1998 Pole Attachment Order*”). See *Amendment of Commission’s Rules and Policies Governing Pole Attachments, Implementation of Section 703(e) of the Telecommunications Act of 1996*, CS Docket Nos. 97-98, 97-151, Consolidated Partial Order on Reconsideration, 16 FCC Rcd 12103, 12140, para. 73 (2001) (describing overlanding as “tying communication conductors to existing, supportive strands of cable on poles”) (“*2001 Pole Attachment Order*”).

additional charges. The commenters generally agree that the Commission should adopt clear overloading rules to provide regulatory certainty and remove barriers hindering broadband deployment. As the Commission has often stated, overloading reduces the cost of and expedites wireline broadband deployment without jeopardizing pole safety or reliability. Yet, the record shows that, despite the Commission's longstanding precedent, some utility pole owners continue to claim the right to impose costly and unnecessary overloading conditions based on safety claims that the Commission has repeatedly considered and rejected. These conditions are inconsistent with Commission precedent and threaten to impede the upgrading, expansion, and densification of broadband networks. As a result, the Commission should remove these barriers to broadband deployment by codifying existing law permitting an attachor or third party to overload consistent with generally accepted engineering practices without having to file a pole attachment application or otherwise obtain advance utility approval or pay additional charges. In addition, although not required by Commission precedent, ACA does not oppose service providers and utility pole owners agreeing to a reasonable overloading notice period.

II. THE COMMISSION SHOULD CODIFY ITS LONGSTANDING PRECEDENT PERMITTING OVERLOADING WITHOUT THE NEED TO FILE AN APPLICATION OR OTHERWISE OBTAIN ADVANCE UTILITY APPROVAL OR PAY ADDITIONAL CHARGES

The Commission should codify existing law permitting overloading without the need to file a pole attachment application or otherwise obtain advance utility approval or pay additional charges. Codification will provide service providers and utility pole owners with regulatory certainty and remove unlawful barriers that stymie broadband deployment.⁴

⁴ As discussed later in the comments, beyond the codification of Commission precedent, ACA does not oppose parties being able to negotiate a reasonable notice period for overloading.

A. The Record Supports Codification of Commission Precedent to Provide Regulatory Certainty and Eliminate the Unlawful Overlapping Barriers that Exist in the Market

Because overlapping is critical to expand broadband network capacity and upgrade existing facilities⁵ and because there appears to be uncertainty about the Commission's overlapping precedent, most commenters from across industry sectors agreed with ACA that the Commission should codify its overlapping precedent.⁶ NTCA, for instance, explained that the current lack of overlapping rules "exacerbates uncertainty" among service providers and pole owners,⁷ and AT&T noted that codifying Commission overlapping precedent "will reduce confusion by eliminating uncertainty."⁸ NCTA stressed that "[t]he Commission's decision to affirm its longstanding precedent on overlapping provides greater certainty to cable operators

⁵ See Comments of Crown Castle International Corp., WC Docket No. 17-84, at 2 (Jan. 17, 2018) ("[T]he ability to overlap marks the difference between being able to serve a customer's broadband needs within weeks versus six or more months.") ("Crown Castle Comments"); Comments of CenturyLink, WC Docket No. 17-84, at 6 (Jan. 17, 2018) (noting that overlapping provides "a quick and cost effective means to extend fiber to new and existing locations") ("CenturyLink Comments"); Comments of the American Cable Association on the Further Notice of Proposed Rulemaking, WC Docket No. 17-84, at 2 (Jan. 17, 2018) (stating overlapping is necessary to deliver high-performance broadband services) ("ACA Comments").

⁶ ACA Comments at 9-10. See Comments of the Fiber Broadband Association on the Further Notice of Proposed Rulemaking, WC Docket No. 17-84, at 6 (Jan. 17, 2018) ("The Commission should codify existing law to eliminate utility barriers on overlapping.") ("FBA Comments"); Comments of NCTA – The Internet & Television Association, WC Docket No. 17-84, at 1 (Jan. 17, 2018) (supporting "the Commission's affirmation and codification of its longstanding precedent regarding overlapping of facilities") ("NCTA Comments"); Comments of AT&T, WC Docket No. 17-84, at 15 (Jan. 17, 2018) ("AT&T supports the Commission's longstanding policy of promoting overlapping additional wires, cables, and equipment.") ("AT&T Comments"); Comments of Comcast Corporation, WC Docket No. 17-84, at 6 (Jan. 17, 2018) ("Codifying existing overlapping precedent will help accelerate broadband deployment.") ("Comcast Comments"); CenturyLink Comments at 1 (stating that codification will ensure that "overlapping, and the faster deployment of broadband that it enables, is available on all poles under the Commission's jurisdiction"); Comments of Verizon on the FNPRM, WC Docket No. 17-84, at 18 (Jan. 17, 2018) ("Verizon supports the Commission's proposal to codify its precedent on overlapping.") ("Verizon Comments"); Crown Castle Comments at 1 (requesting the Commission "codify its existing overlapping precedent"); Joint Comments of CenterPoint Energy Houston Electric, LLC and Dominion Energy, WC Docket No. 17-84, at 1 (Jan. 17, 2018) ("The commenters here do not oppose, and in fact, supported . . . rules that codify prior orders of the Commission with respect to the practice of overlapping.") (internal emphasis omitted) ("CenterPoint/Dominion Comments").

⁷ Comments of NTCA – The Rural Broadband Association, WC Docket No. 17-84, at 4 (Jan. 17, 2018) ("NTCA Comments").

⁸ AT&T Comments at 15.

that continue to face resistance from utilities.”⁹ Comcast similarly noted that strong rules would deter utilities from imposing overlashing barriers.¹⁰ These barriers significantly increase broadband deployment costs and foster time-consuming disputes.¹¹ As the Fiber Broadband Association (“FBA”) noted, overlashing disputes “divert[] resources that should go to deployments to completing attachment applications, conducting pole load studies, and satisfying other unnecessary conditions imposed by utilities.”¹² ACA members similarly reported that the expense and delays associated with satisfying utility conditions delayed important network deployments, upgrades, and repairs.¹³

As the Commission recognized in the *FNPRM*, codification will “enhance the deployment of broadband services and . . . compliance with long-standing precedent by providing additional clarity” regarding the relative rights and responsibilities of service providers and utility pole owners.¹⁴ Codification therefore furthers the Commission’s goals to “make clear the rights of overlashers . . . [and] reduce any confusion that may delay attachers from deploying next-generation services to unserved communities.”¹⁵ Consequently, ACA joins other commenters in

⁹ NCTA Comments at 3.

¹⁰ Comcast Comments at 2.

¹¹ See ACA Comments at 7 (stating utility conditions “effectively acted as a tax” on overlashing); Crown Castle Comments at 4 (arguing excessive utility overlashing standards result in costly, time-consuming disputes). FBA and Crown Castle claimed that some utilities required full pole attachment applications for all overlashing projects, regardless of size or complexity. FBA Comments at 7; Crown Castle Comments at 4. Comcast also discussed utility efforts to impose “unreasonable” advance approval requirements. Comcast Comments at 7-8. Other commenters described utilities implementing new overlashing standards at will without any engineering rationale. See Crown Castle Comments at 4 (“Often these policies or standards changes are represented as safety-related but without any stated basis or rationale.”).

¹² FBA Comments at 8. See Verizon Comments at 7-8 (stating that, even when service providers successfully challenge burdensome utility conditions, the time and effort spent resolving these disputes drew resources away from other projects).

¹³ ACA Comments at 6.

¹⁴ *FNPRM* at para. 8.

¹⁵ *Id.* at para. 162.

urging the Commission to codify its longstanding overloading precedent to provide the regulatory certainty needed to accelerate broadband deployment.

B. Longstanding Commission Precedent Shows that Overloading is Not Subject to Prior Utility Approval or Additional Charges

In the *FNPRM*, the Commission sought comment on codifying its “longstanding precedent regarding overloading,” although it did not precisely define what its precedent required.¹⁶ As ACA and others explained in their initial comments, Commission precedent is clear that overloading does not require prior utility approvals or payment of additional charges.¹⁷ For over 20 years, the Commission has trusted service providers to overload consistent with standard engineering practices and taken action to ensure that utilities are not interfering with these providers’ rights.¹⁸ Verizon noted that the Commission has repeatedly held that no additional approval from the utility pole owner is needed for an existing attacher to overload its own facilities or for a third party to overload to an existing attachment (with the host attacher’s approval).¹⁹ In particular, the Commission determined “that neither the host attaching entity nor the third party overloader *must obtain additional approval from or consent of the utility for overloading other than the approval obtained for the host attachment.*”²⁰ The Commission

¹⁶ *Id.*

¹⁷ ACA Comments at 3. See FBA Comments at 8 (asserting “existing law permit[s] overloading without an attachment application or other utility conditions”); NCTA Comments at 1 (asking Commission to codify “precedent permitting overloading without prior approval of the pole owner”); Comcast Comments at 6 (“Existing Commission and judicial precedent is clear in prohibiting utility pole owners from imposing approval . . . requirements on overloading”); CenturyLink Comments at 3 (“[A]ttachers should be permitted, without the pole owner’s approval, to overload their own or third-parties’ pole attachments.”); Crown Castle Comments at 4-5 (arguing Commission precedent does not permit advance fees or application requirements for overloading).

¹⁸ See, e.g., *Common Carrier Bureau Cautions Owners of Utility Poles*, Public Notice, DA 95-35, at 2 (CCB 1995) (finding utility pole owners may be unreasonably preventing overloading by delaying or denying approvals for overloading requests) (“1995 Public Notice”); *1998 Pole Attachment Order*, 13 FCC Rcd at 6806, para. 60 (stating that utility pole owners placed “improper constraints” on overloading); *2001 Pole Attachment Order*, 16 FCC Rcd at 12141, para. 73 (affirming the Commission’s “continued approval of, and support for” overloading).

¹⁹ Verizon Comments at 18.

²⁰ *2001 Pole Attachment Order*, 16 FCC Rcd at 12141, para. 75 (emphasis added).

determined that overlashing consistent with “generally accepted engineering practices” would not overload poles and “should be permitted without additional charge.”²¹ Although the Commission did not define the parameters of “generally accepted engineering practices,” the Commission’s precedent reflects its confidence that providers know such practices and could be trusted to follow them without input from utilities, and its determination that the benefits provided by overlashing under these conditions outweighed any potential harm. It is ACA members’ experience that service providers, contractors, and utilities have long agreed on the industry standards for safe overlashing. In fact, ACA members reported that the determination for whether a particular overlashing will impact pole safety is usually done through automated software.²²

Some utility commenters acknowledged Commission precedent finding that overlashers do not need to obtain additional approval from the pole owner or pay additional charges before overlashing.²³ For example, the Utilities Technology Council recognized that the Commission “did not require prior consent from the utility for overlashing,” and CPS Energy stated that, “[u]nder the Commission’s established policies, an attaching entity may overlash . . . existing facilities without obtaining additional approval from the pole owner, and such overlashed facilities are not subject to a separate attachment fee.”²⁴ In addition, a coalition of electric

²¹ *1998 Pole Attachment Order*, 13 FCC Rcd at 6807-08, para. 64. As a result, overlashers are not responsible for the cost of correcting preexisting violations on a pole caused by other attachers or utility pole owners. In fact, the Commission previously found that requiring attachers to pay for the correction of violations caused by others is unreasonable. See *Kansas City Cable Partners d/b/a Time Warner Cable of Kansas City v. Kansas City Power & Light Co.*, File Nos. PA 99-001, PA 99-002, Consolidated Order, 14 FCC Rcd 11599, 11606-07, para. 19 (1999).

²² As a result, there is no need to take up NTCA’s recommendation for the creation of an industry working group to define overlashing standards. See NTCA Comments at 3-4.

²³ Initial Comments of the Electric Utilities on Overlashing, WC Docket No. 17-84, at 9 (Jan. 17, 2018) (recognizing “advance consent is not required” for overlashing) (“Electric Utilities Comments”)

²⁴ Comments of the Utilities Technology Council, WC Docket No. 17-84, at 6 (Jan. 17, 2018) (“UTC Comments”); Comments of CPS Energy, WC Docket No. 17-84, at 6 (Jan. 17, 2018) (“CPS Energy Comments”).

utilities argued that concerns with overlashing could be addressed through overlasher compliance with generally understood capacity, safety, reliability, and engineering standards.²⁵ ACA agrees with these utility commenters that overlashing consistent with standard engineering practices does not detrimentally impact pole safety, eliminating the need for advance utility approvals and other overlashing conditions or fees.

By contrast, other utilities claimed that Commission precedent requires prior utility approval and allows utilities to impose conditions on overlashers to protect pole safety. These commenters alleged that overlashing can undermine pole safety by adding dangerous wind and ice load to poles and exacerbating preexisting safety violations, requiring a detailed evaluation of each and every pole affected by an overlashing project.²⁶ As a result, these utilities contended that overlashing is subject to the same approval requirements and conditions imposed on new pole attachments under Commission precedent.²⁷

These utility commenters are wrong.²⁸ While the Communications Act allows utilities to deny access to their poles on a non-discriminatory basis “for reasons of safety, reliability and generally applicable engineering purposes,”²⁹ the Commission determined that overlashing does not pose such safety, reliability, or engineering concerns.³⁰ Nowhere has the Commission

²⁵ Electric Utilities Comments at 26.

²⁶ See CenterPoint/Dominion Comments at 6; Electric Utilities Comments at 18; Comments of the Edison Electric Institute, WC Docket No. 17-84, at 4 (Jan. 17, 2018) (“EEI Comments”); UTC Comments at 3; Comments of Xcel Energy Services Inc., WC Docket No. 17-84, at 4 (Jan. 17, 2018) (“Xcel Energy Comments”); Comments of the Utility Coalition on Overlashing, WC Docket No. 17-84, at 21 (“Utility Coalition Comments”).

²⁷ See Utility Coalition Comments at 23-25; EEI Comments at 4-5.

²⁸ ACA again notes that many of the safety concerns raised by utility commenters do not involve the overlashing of wireline facilities. See CenterPoint/Dominion Comments at 10; CenturyLink Comments at 2; Utility Coalition Comments at 8; CPS Energy Comments at 2; EEI Comments at 16; Xcel Energy Comments at 2. These concerns are best addressed in other Commission proceedings.

²⁹ 47 U.S.C. § 224(f).

³⁰ Multiple commenters noted that the Commission repeatedly rejected utility claims that overlashing detrimentally impacts pole safety. ACA Comments at 10; NCTA Comments at 1-3; Comcast Comments at 6-7; Verizon Comments at 18-19.

provided utilities a right to deny overlashing.³¹ The Commission instead noted that “[o]verlashing has been in practice for many years” without incident, undercutting utility assertions that overlashing inherently endangers pole safety.³² As CenturyLink explained, “while the Commission acknowledged pole owners’ concerns regarding engineering specifications . . . it concluded that such matters could be addressed through subsequent notice and inspection processes,” rather than through advance approval requirements.³³ The Commission therefore found that overlashing “did not disadvantage the utility’s ability to ensure the integrity of its poles”³⁴ and struck down provisions imposing utility approval requirements on overlashing.³⁵ Thus, Commission precedent shows that utilities do not have the right to impose advance approval requirements or other conditions on overlashing to existing facilities.

Not only do utility arguments in defense of overlashing barriers ignore Commission precedent, they also ignore the strong policy reasons for not imposing advance approval obligations or other conditions on overlashing. As FBA explained, requiring advance utility approval will open up the overlashing process to increased costs and delays.³⁶ Most utilities lack the staff necessary to respond to overlashing requests in a timely manner and may seek to recoup the costs associated with reviewing such requests from service providers.³⁷ FBA and

³¹ The Commission understood that overlashing may add wind and ice load to poles, but it found that any new load did not increase the amount of pole space actually occupied by the host attachment. *2001 Pole Attachment Order*, 16 FCC Rcd at 12141, para. 74.

³² *1998 Pole Attachment Order*, 13 FCC Rcd at 6807-08, para. 64. See NCTA Comments at 1 (stating that overlashing “has successfully promoted the efficient deployment of new facilities without sacrificing network safety or reliability”); Crown Castle Comments at 1-2 (arguing overlashing facilitates broadband deployments “in a safe and beneficial manner”). ACA notes that no utility commenter provided data in this proceeding regarding how often overlashing results in new safety violations.

³³ CenturyLink Comments at 4-5.

³⁴ *2001 Pole Attachment Order*, 16 FCC Rcd at 12141, para. 74.

³⁵ See *The Cable Television Ass’n of Ga. v. Ga. Power Co.*, File No. PA 01-002, Order, 18 FCC Rcd 1633, 16340-41, para. 13 (EB 2003).

³⁶ FBA Comments at 9.

³⁷ *Id.*

ACA also emphasized that overlashers are well aware of the need to safeguard pole safety, both because they (or entities allowing third-party overlashing) already have facilities on the poles and are at risk of paying damages to other parties for loss, injury, or harm suffered as a result of overlashing.³⁸ In discussions with its members, ACA found that service providers assess the impact of overlashing prior to deployment and work with utility pole owners to address any identified issues that prevent the provider from performing the overlash consistent with generally accepted engineering practices.³⁹ Public safety and utility property rights therefore remain protected throughout the overlashing process.

ACA agrees with NCTA that “the Commission’s policy of encouraging unrestricted overlashing, including its decision to prohibit prior approval requirements for overlashing, is a critical element of the regulatory foundation on which billions of dollars of new investment have been made.”⁴⁰ The Commission should protect this investment by codifying existing law permitting overlashing without needing to file a pole attachment application or otherwise obtain prior utility approval or pay additional charges. Specifically, ACA recommends the Commission adopt the following rule:

Overlashing to existing facilities on utility poles consistent with generally accepted engineering practices does not require prior utility pole owner approval, including a pole attachment application, or additional payment to the utility pole owner.

³⁸ FBA Comments at 5-6; ACA Comments at 8.

³⁹ Specifically, ACA members reported that service providers regularly undertake a drive-out survey of poles prior to overlashing, where their engineers assess the current load and identify any preexisting safety violations. In the rare case where the survey revealed a safety issue, ACA members coordinated with the utility to complete the necessary make-ready work to strengthen the pole or sought alternative deployment options. See FBA Comments at 5 (stating FBA contractors “will place new strand instead of overlashing if field engineering identifies a potential safety issue”).

⁴⁰ NCTA Comments at 2.

C. Although Not Required by Commission Precedent, ACA Does Not Oppose Service Providers and Utilities Negotiating a Reasonable Notice Period for Overlapping

ACA does not oppose service providers and utility pole owners negotiating a reasonable overlapping notice period as part of their pole attachment agreements.⁴¹ The Commission asked in the *NPRM* whether it should “codify” a rule stating that overlapping is subject to a “notice-and-attach” process.⁴² ACA notes that Commission precedent does not require prior notice of overlapping. As one utility commenter observed, “the Commission has not adopted a formal rule requiring advance notice of overlapping.”⁴³ Verizon pointed out that, while the Commission previously suggested that it would be “reasonable” for a service provider to agree to provide advance notice of overlapping to a utility pole owner by contract, it did not give utilities the right to deny overlapping if such advance notice is not provided.⁴⁴ In fact, the D.C. Circuit explicitly upheld the Commission’s policy that “[o]verlappers are *not* required to give prior notice to utilities before overlapping.”⁴⁵ The court concluded that the Commission’s expedited overlapping process properly balanced utility pole owner concerns and the efficiency gains overlapping provides.⁴⁶

Although not required by Commission precedent, ACA does not oppose service providers and utility pole owners agreeing to an overlapping notice period. Many commenters

⁴¹ In its comments in response to the initial proposed rulemaking in this proceeding, ACA supported a 15-day notice requirement for overlapping. See Comments of the American Cable Association on the Notices of Proposed Rulemaking, WC Docket No. 17-84, WT Docket No. 17-79, at 30-31 (June 15, 2017); Reply Comments of the American Cable Association on the Notices of Proposed Rulemaking, WC Docket No. 17-84, WT Docket No. 17-79, at 7-10 (July 17, 2017). However, after further discussions with its members and reviewing the comments filed in this proceeding, ACA members expressed concern that a mandated notice requirement of a set amount of time could thwart opportunities for utilities and overlappers to reach agreements of a shorter duration that could allow overlapping to occur faster.

⁴² *FNPRM* at para. 162.

⁴³ EEI Comments at 11.

⁴⁴ Verizon Comments at 7.

⁴⁵ *S. Co. Servs., Inc. v. FCC*, 313 F.3d 574, 582 (D.C. Cir. 2002) (emphasis added).

⁴⁶ *Id.*

supported some form of advance notice for overlashing.⁴⁷ In discussions with its members, ACA found that many overlashers already provide 15-days advance notice to utility pole owners as part of their pole attachment agreements.⁴⁸ For the utility to avoid potential work scheduling conflicts on individual poles and to be able to verify individuals working on its poles are authorized, these ACA members recognize there could be a need for a pole owner (and other attachers on the pole) to know when an existing attacher might be on a particular pole or touching a pole's wires to overlash as well as who is doing the overlashing work. ACA does not oppose providing advance notice to utilities of overlashing for such reasons, so long as such notice is reasonable (both in its duration and the amount of information provided). ACA cautions the Commission, based on the experiences of its members in dealing with many utilities, that any notice period needs to be brief and any information requirements need to be circumscribed to only essential information. Otherwise, the new requirements will set in motion a new round of disputes, which will impose additional costs and time, further impeding deployments.⁴⁹

⁴⁷ See CenterPoint/Dominion Comments at 6; Electric Utilities Comments at 25; Utility Coalition Comments at 10; CPS Energy Comments at 2; EEI Comments at 12; UTC Comments at 4; AT&T Comments at 15; Xcel Energy Comments at 1-2; NTCA Comments at 5. A handful of states also require advance notice of overlashing. As examples, Washington and Louisiana require 15 days' notice, while Utah requires 10 days' notice for most overlashing projects and Iowa requires 7 days' notice.

⁴⁸ See EEI Comments at 12 (“[M]ost attachers already agree to contractual provisions in their pole-attachment contracts which require advance notice of overlashing.”).

⁴⁹ Some commenters supported unnecessarily long notice periods. See CenterPoint/Dominion Comments at 4 (supporting 45-day notice period); AT&T Comments at 15 (supporting 30-day notice period); see also EEI Comments at 9 (noting that the Arkansas Public Service Commission adopted a 45-day notice period). The commenters provided no explanation for why a shorter notice period cannot protect pole safety, and other utilities argued for briefer notice periods. See Electric Utilities Comments at 25 (supporting 15-day notice period); NTCA Comments at 5 (same); CPS Energy Comments at 8 (supporting notice period of 5 to 10 days, depending on size of overlashing); see also *1995 Public Notice*, at 1-2 (stating that pole owners “may be unreasonably preventing cable operators from ‘overlashing’ fiber to their existing lines by failing to process a request to overlash fiber within a reasonable time period”).

ACA similarly does not support notice obligations that effectively impose alternative approval requirements or other conditions barred under Commission precedent, including the submission of a pole loading analysis or other engineering studies.⁵⁰ Importantly, the overlasher would provide *notice* to the utility, not seek the utility's *approval* to overlash. Service providers would overlash in accordance with the plans developed by their qualified engineers, without having to submit a pole attachment application or otherwise receive advance utility approval or pay additional charges. Utilities would still be able to conduct a post-overlashing audit and work with the overlasher to correct any identified issues.⁵¹ This process will ensure that overlashers receive timely and cost-effective access to poles, while protecting pole safety and reliability.

⁵⁰ For example, service providers noted that some utilities require costly, time-consuming pole loading analyses for every pole impacted by an overlashing, regardless of a project's size or complexity. FBA Comments at 7. However, as one utility commenter acknowledged, a simple visual inspection by knowledgeable personnel often can exclude poles from pole load analysis requirements. CenterPoint/Dominion Comments at 19.

⁵¹ See CenturyLink Comments at 5-6 (discussing its post-overlashing review process); NTCA Comments at 5-6 (recommending a 15-day "cure" period requiring overlashers to remedy safety issues identified by utility pole owners at the overlashers' expense).

III. CONCLUSION

For the foregoing reasons, ACA recommends that the Commission codify longstanding precedent permitting overlashing without needing to file a pole attachment application or otherwise obtain prior utility approval or pay additional charges.

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