



matters and has offered previous comments to the Commission.<sup>3</sup> The MPSC respectfully submits its reply comments in response to the comments filed in the above captioned proceeding.

As the Commission has noted, high-speed broadband is an increasingly important gateway to jobs, healthcare, education, and information. Access to high speed broadband is essential to creating economic opportunity for all Americans. Streamlining rules, accelerating approvals, and removing other barriers, where possible, will better enable broadband providers to build, maintain, and upgrade their networks, which in turn will lead to more affordable and accessible Internet access and other broadband services for consumers and businesses alike.<sup>4</sup> The MPSC supports the Commission's goal to remove barriers to broadband infrastructure deployment in order to support high speed internet access benefits to the public, but strongly cautions the Commission to consider the implications of its proposed policy changes to customers, providers, local governments and the states. The comments provided herein are intended to provide more specific details regarding the concerns of the MPSC.

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<sup>3</sup> See Comments to the FCC [http://www.michigan.gov/mpsc/0,4639,7-159-16372\\_17098-409650--,00.html](http://www.michigan.gov/mpsc/0,4639,7-159-16372_17098-409650--,00.html)

<sup>4</sup>FCC Fact Sheet [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344161A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344161A1.pdf) pg. 1

## ***Notice of Proposed Rulemaking***

### ***Pole Attachments***

The MPSC agrees that pole attachments are a key source of infrastructure for many broadband deployment projects<sup>5</sup>, however the MPSC cautions the FCC that speeding access to poles could raise significant concerns about safety and protection of existing infrastructure and public and private sector employees that service those poles and urges the FCC to work toward an approach that facilitates new attachments without creating unnecessary risk of harm. The MPSC agrees with the comments of the Texas Office of Public Utility Counsel that pole attachment issues affect not only communication companies, but also electric utilities whose facilities must be accessed and consumers of both services. New policies and procedures contemplated by the Commission should balance the need for rapid and cost-effective deployment of advanced broadband services with the cost, reliability, and safety concerns of electric utilities and their ratepayers. Pole attachment reform proposals must also be balanced against the need to keep the electric grid safe and reliable<sup>6</sup>.

### ***Copper Retirements/Network Change Notices***

The Commission is proposing disclosure rules to allow providers greater flexibility in the copper retirement process and to reduce associated regulatory

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<sup>5</sup> FCC April 21, 2017 Notice pg. 2

<sup>6</sup> See Texas Office of Public Utility Counsel Comments, <https://ecfsapi.fcc.gov/file/1061528319068/17-84%20Comments%20of%20TXOPUC.pdf> pgs.1, 5.

burdens, to facilitate more rapid deployment of next-generation networks<sup>7</sup>. The FCC is also seeking comment on the streamlining and/or eliminating provisions of the more generally applicable network change notification rules.<sup>8</sup> The MPSC is concerned with abbreviated deadlines that may cause issues with public safety entities, hospitals, and others that depend on these legacy services. The shortening of the lengths of time may not provide adequate time for affected customers to respond.

The MPSC supports advanced notification provided to customers to ensure they have adequate time to plan for the transition to substitute or alternative services. This is especially true for those with disabilities that may need to use compatible equipment and for critical infrastructure customers. Requirements should be calculated to ensure end-users have sufficient time to determine the impact of the transition (effect on devices and services, need for backup power, etc.), research other options, and provide any comments to the Commission.

### **Notice of Inquiry**

The MPSC opposes FCC preemption of local and state authority and agrees with the National Association of Regulatory Utility Commissions (NARUC) that the FCC should be careful to respect the limits on its authority that are imposed by the

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<sup>7</sup> FCC April 21, 2017 Notice pg. 18

<sup>8</sup> FCC April 21, 2017 Notice pg. 18

clear text of federal telecommunications law.<sup>9</sup> The FCC must recognize state laws with regard to public rights-of-way. The MPSC believes that Section 253 of the federal act does not allow the FCC to preempt state and local laws as the statements in the Notice seem to suggest.<sup>10</sup> The MPSC also believes that the FCC should allow the states to address individual situations within their borders that create barriers to the deployment of broadband and not attempt to use blanket preemption across the nation. The MPSC also agrees with the Minnesota Telecom Alliance (MTA) that “preemption could have the unintended consequence of interference with state laws . . . that support and facilitate broadband deployment” which could lead to litigation with resulting confusion and delay of deployment of broadband services.”<sup>11</sup>

The MPSC shares the FCC’s goal to accelerate broadband as well, but believes that States are in the best position to determine the needs of its state and its citizens. In 2002, after seeing issues with a patchwork of regulations and various costs imposed by local governments for telecommunications providers seeking to use the public rights-of-way, Michigan passed the Metropolitan Extension Telecommunications Rights-Of-Way Oversight (METRO) Act to cut red

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<sup>9</sup> See NARUC Comments:  
<https://ecfsapi.fcc.gov/file/106151758516325/17%200615%20NARUC%20Initial%20Comments%20Wireline%20NPRM.pdf> pg. 4

<sup>10</sup> FCC April 21, 2017 Notice pgs. 31-36

<sup>11</sup> See MTA comments pg. 1  
<https://ecfsapi.fcc.gov/file/106152184101245/MTA%20Comments%20Regarding%20ROW.pdf>

tape and create a uniform structure for providers to access the public rights-of-way in Michigan.<sup>12</sup> The METRO Act established a process for permits, fees, and disputes and has worked to advance deployment of broadband in Michigan. Decisions involving individual states' public-rights-of-way should be made by those states and local officials who live and work in those states and are in a position to be held accountable for the decisions that are made with respect to the health, safety and well-being of their citizens. The MPSC receives both formal and informal complaints as well as almost daily inquiries pertaining to obligations of municipalities and providers that wish to occupy the public rights-of-way. To have the FCC claim responsibility for these state obligations under the federal act in the context of advancing broadband deployment would do a great disservice to the states and their citizens.

### **Request for Comment**

The FCC also seeks comment whether it should revisit, and what the proper scope is of the Commission's 2014 Declaratory Ruling and subsequent 2015 Order on Reconsideration expanding what constitutes a service for purposes of a Section 214(a) discontinuance review, specifically on the "functional test" interpretation.<sup>13</sup> The MPSC does not support changes to the policies that were implemented in the Commission's 2014 Declaratory Ruling and 2015 Order, particularly with regard to

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<sup>12</sup> See MCL 484.3101 *et seq.*, <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-48-of-2002.pdf>.

<sup>13</sup> FCC April 21, 2017 Notice pg. 37

the functional test. The MPSC supported the functional test in previous comments and reply comments to the Commission<sup>14</sup>.

## **Conclusion**

The MPSC appreciates the opportunity to provide its comments on such important issues. While the MPSC understands the desire of the FCC to implement rules and create changes at the federal level to remove barriers to entry in order to accelerate broadband deployment, it is also imperative that the FCC understands the safety concerns and issues that impact the states, local governments, customers as well as providers, and Michigan's desire to retain control over decision making that should remain at the state and local level. The MPSC also believes that any further action on issues discussed within the Notice should wait until the Broadband Deployment Advisory Committee, whose mission is to make recommendations to the FCC on how to accelerate the deployment of high-speed internet access by reducing and/or removing regulatory barriers to infrastructure

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<sup>14</sup> See MPSC Comments—in response to the FCC's Order on Reconsideration, and Further Notice of Proposed Rulemaking (FNPRM) seeking comments on clear standards for transitioning from legacy or existing service to an all-IP environment with the goal of ensuring public safety, consumer protection, universal service and competition. GN Docket No. 13-5, *et al* <https://www.fcc.gov/ecfs/filing/60001305118>; Reply Comments of Joint States—In response to the FCC's Order on Reconsideration, and Further Notice of Proposed Rulemaking (FNPRM) seeking comments on clear standards for transitioning from legacy or existing service to an all-IP environment with the goal of ensuring public safety, consumer protection, universal service and competition, GN Docket No. 13-5, *et al* <https://www.fcc.gov/ecfs/filing/60001316062>; In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications PS Docket No. 14-174 *et al* <https://ecfsapi.fcc.gov/file/60001026921.pdf>.

investment, has had an opportunity to create those recommendations for the Commission's consideration and to allow public review and input on those recommendations.<sup>15</sup>

Respectfully submitted,

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<sup>15</sup> See FCC GN 17-83 [https://www.fcc.gov/ecfs/search/filings?proceedings\\_name=17-83&sort=date\\_disseminated,DESC](https://www.fcc.gov/ecfs/search/filings?proceedings_name=17-83&sort=date_disseminated,DESC)