

Joint Use & Pole Attachments News Flash

FCC's Cell Tower Siting "Shot Clock" and Broadband Deployment "Critical Gaps" Report – Potential Indicators of Pole Attachment Policy

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FCC Adopts Another "Shot Clock"

During yesterday's FCC Open Meeting, the Commission adopted unanimously a "shot clock" for state and local authorities to rule on cell tower applications. The FCC announced that the new shot clock "promotes the deployment of broadband and other wireless services...." This declaratory ruling was made in response to a petition from CTIA – the wireless industry's trade group. Links to the Order and the FCC's press release are [here](#) and [here](#).

The FCC's cell tower shot clock requires local decisions on applications within 90 days for collocations and 150 days for new tower placements. These deadlines "interpret" Section 332(c)(7) of the Communications Act's previous requirement that the zoning decisions be made within a "reasonable time." The FCC's order includes no new penalties if the deadlines are not met. Instead, the applicant still must appeal a failure to act in "any court of competent jurisdiction." The lack of new FCC imposed penalties is one positive aspect of the order.

The FCC's order (and each of the five Commissioner's Official Statements) claims that the new rules do not infringe on the zoning authority reserved to state and local governments. Nevertheless, affected state and local authorities likely will challenge the constitutionality of the new rule.

While nothing in the order directly impacts pole attachments, it may signal the FCC's predilections on similar pole attachment issues. CLEC interests have asked the FCC, in the various pending broadband dockets and pole attachment rulemaking, to impose a make-ready and access shot clock requiring pole owners to complete make-ready and grant access within specific time periods. If the FCC is willing to impose one-size-fits-all deadlines on governmental zoning authorities, it is safe to assume the FCC may be predisposed to visit similar requirements on electric utility pole owners.

FCC's "Critical Gap" Report

Also during yesterday's meeting, the FCC's Omnibus Broadband Initiative ("OBI") team presented a report on what they believe to be "critical gaps" in broadband deployment. Copies of the presentation and the FCC's press release are [here](#) and [here](#). For the second time in as many meetings, the OBI team reported to the Commission their belief that "pole attachment costs" are one of several impediments to broadband deployment. As with the first OBI report, the "support" cited for this belief is OBI staff's own analysis.

The FCC's pole attachment policy is intertwined in the broadband debate. Stay tuned for further developments.