

**Sponsors: Northern California Power Agency; Missouri River Energy Services; California Municipal Utilities Association; Seattle City Light; Lincoln Electric System; Grant County Public Utility District; Turlock Irrigation District; Chelan County Public Utility District; WPPI Energy; Tacoma Public Utilities; Southern California Public Power Authority; Northwest Public Power Association; Sacramento Municipal Utility District; Municipal Electric Utilities of Wisconsin; New York Association of Public Power; American Municipal Power; Ohio Municipal Electric Association; Washington Public Utility Districts Association; Missouri Association of Municipal Utilities; Missouri Joint Municipal Electric Utility Commission; Minnesota Municipal Utilities Association; Tennessee Valley Public Power Association; Tennessee Municipal Electric Power Association; Florida Municipal Electric Association; Oklahoma Municipal Power Authority**

**In Support of Affirming Local Control of Pole Attachments**

1 Under Section 224 of the Communications Act, electric utility poles owned by public power utilities are  
2 exempt from Federal Communications Commission (FCC or Commission) jurisdiction. Despite this clear  
3 exemption, the FCC adopted a report and order on September 26, 2018, that asserts the Commission has  
4 jurisdiction over public power utility poles under sections 253 and 332 of the Communications Act—two  
5 sections that have nothing to do with pole attachments. The FCC claimed its actions were needed to  
6 facilitate the deployment of 5G broadband technology. The report and order cited no evidence of public  
7 power utilities being an impediment to the roll out of wireless broadband.

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9 Under the FCC report and order, one-size-fits-all requirements would be placed on the application and  
10 review process, rates, and other policies of public power utilities regarding pole attachments. It would  
11 apply retroactively, overturning existing pole attachment agreements and applicable state and local laws,  
12 regulations, and ordinances. Because of the impact of the report and order on public power utilities  
13 across the country, the American Public Power Association (APPA) is challenging it in federal court.  
14 Localities impacted by other provisions in the report and order have also challenged it in court. The order  
15 remains in effect while the challenges are pending before the U.S. Court of Appeals for the Ninth Circuit.

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17 Legislation was introduced by Representative Anna Eshoo (D-CA) in January 2019 to nullify the  
18 Commission’s report and order and restore local control. APPA supports H.R. 530, the Accelerating  
19 Broadband Deployment by Empowering Local Communities Act of 2019, by Rep. Eshoo.

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21 **NOW, THEREFORE, BE IT RESOLVED:** That the American Public Power Association (APPA)  
22 opposes the actions taken by the Federal Communications Commission (FCC or Commission) in its  
23 September 26, 2018, report and order to regulate public power pole attachments in contravention of the  
24 clear language in section 224 of the Communications Act that precludes the Commission from doing so.

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26 **BE IT FURTHER RESOLVED:** That APPA supports legislation to overturn the FCC’s report and  
27 order issued on September 26, 2018, to restore local control of pole attachments.