UTC 2020 Resolution: Resolution Encouraging Voluntary Programs that Facilitate Small-Cell Collocation on Street Lights Owned by Electric Utilities

WHEREAS, Electric utilities own a significant number of posts, standards, poles and other structures used primarily to support street and outdoor area lighting ("streetlights"); and

WHEREAS, 5G deployment will require the construction of tens of thousands of small-cellular devices (small cells) and other wireless antenna installations across the country; and

WHEREAS, Unlike electric distribution poles, the structures that support street and outdoor area lighting are neither part of a network nor generally suitable for attachments (wireline or wireless); and

WHEREAS, Each electric utility-owned streetlight exists at the request and leisure of a particular customer, often a city or other governmental entity, that specifies the operational and aesthetic characteristics of the streetlight; and

WHEREAS, Because they are not part of an electric utility's electric distribution system and because of other unique characteristics, streetlights have therefore been viewed as falling outside the FCC's pole attachment jurisdiction; and

WHEREAS, Because wireless providers almost always have alternative deployment options (including setting their own pole or other support structure in the right-of-way), streetlight colocation solution offered by an electric utility must be competitive and cost-effective; and

WHEREAS, These voluntary, market-based, negotiated agreements have facilitated the colocation of thousands of small cells and other wireless facilities on electric utility-owned streetlights; and

WHEREAS, CTIA (which represents the wireless industry) filed a petition for declaratory ruling in the FCC asking the FCC to regulate streetlight colocation in the same manner as the FCC currently regulates attachments to electric distribution poles; and

WHEREAS, Congress in 1978 passed the Pole Attachments Act, requiring the Federal Communications Commission (FCC, the Commission) to establish regulated rates for pole attachments to support the then-developing cable industry; and

WHEREAS, The Pole Attachments Act specifically exempted poles owned by public power and cooperative utilities; and

WHEREAS, The trend of regulating pole attachment rates to assist new industries, such as cable and, later, wireless, broadband, and data companies, has continued over time, with the FCC limiting the amount that pole owners can charge for access to their infrastructure while at the same time imposing unachievable access rules; and,

WHEREAS, Though the stated purpose of these laws and subsequent FCC rules was to expedite and lower the cost of entry for these businesses and technologies, these laws and subsequent FCC rules have also led to a lack of innovation, cooperation and mutually beneficial solutions; and,

WHEREAS, The lack of innovation, cooperation and mutually beneficial solutions under the FCC's current regulatory scheme for attachments to electric distribution poles has its most profound negative impact on the deployment of wireless facilities on crowded distribution poles; and

WHEREAS, The courts have held that the Pole Attachments Act limits the FCC's jurisdiction to an electric

utility's local distribution facilities; and

WHEREAS, The Utilities Technology Council in 2018 passed a Resolution on Pole Attachments encouraging the FCC to recognize and consider criticality of utility poles to the reliability of our nation's electricity system and, by extension, our digital lifestyles, which the grid powers, in setting pole-attachment policies; and

WHEREAS, The 2018 Resolution also encouraged policymakers to pursue policies that do not 1) artificially reduce pole-attachment rates; 2) suppress the market for such attachments; and 3) result in electricity ratepayers subsidizing the well-financed telecommunications industry; and,

WHEREAS, The next wave of wireless communications technology—5G—promises to bring higher speeds and greater broadband connectivity to consumers through small cells; and,

WHEREAS, In order for 5G technologies and speeds to work, small cells must be deployed in high numbers; and

WHEREAS, Streetlights owned by electric utilities are often located in dense urban areas where the need for wireless communications network densification is the greatest; and

WHEREAS, Many utilities have entered into voluntary, market-based agreements with wireless companies to deploy small-cell devices on streetlights, and other utility owned infrastructure, which allow companies to deploy the small-cell devices cost-effectively and at a rapid rate while ensuring that the utilities are fairly compensated; and,

WHEREAS, The CTIA petition before the FCC threatens to disrupt these agreements by undermining the careful balance stricken between multiple stakeholders (including the cities) and removing the financial incentive upon which the agreements are based; and,

WHEREAS, Voluntary, market-based approaches between utilities and telecommunications providers are working and bringing new services to customers, while Draconian regulatory models will squelch innovation, harm public safety, and result in costly, lengthy ligation; and

WHEREAS, For example, the ubiquitous deployment of the first generation of communications infrastructure was facilitated, and made more cost-effective, through voluntary agreements (a/k/a "joint use agreements") between telephone companies and electric utilities—not through forced-placed regulation.

NOW, THEREFORE, BE IT RESOLVED, that the Utilities Technology Council urges the FCC to encourage voluntary, market-based agreements between electric utilities and wireless providers as the best and proven means for deploying 5G and small-cellular services throughout the country; and

LET IT BE FURTHER RESOLVED, that UTC opposes the CTIA petition to impose the current regulatory scheme applicable to attachments to electric distribution poles on streetlight colocation, which would frustrate and delay 5G infrastructure deployment; and

LET IT BE FURTHER RESOLVED, that UTC encourages the FCC to not only deny the CTIA petition (relating to streetlights), but also should consider revisiting its existing regulations which inhibit the deployment of wireless facilities on electric distribution poles; and

LET IT BE FURTHER RESOLVED, that UTC encourages its members to develop and implement innovative and mutually beneficial streetlight colocation programs in order to help win the Race to 5G.

Approved by the UTC Board of Directors, Aug. 24, 2020