AN ACT

Amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, providing for broadband services.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 68 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 82

BROADBAND SERVICES

Sec.

8201. Definitions.

8202. Broadband services.

§ 8201. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"AFFILIATE." A PERSON THAT DIRECTLY, OR INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH A SPECIFIED PERSON. THE TERM INCLUDES SUBSIDIARIES, PARTNERSHIPS, JOINT VENTURES AND OTHER ENTITIES THAT HAVE SHARED RESOURCES, INTERESTS OR BUSINESS DEALINGS.

"Broadband facilities." Wires, cables, materials, equipment and other facilities, which are or can be used for the provision of broadband services.

"Broadband service supplier." An electricity, telecommunications, CABLE OPERATOR or Internet supplier or affiliate that constructs, owns or installs new broadband facilities to provide broadband services, at wholesale or retail, through USING existing electric infrastructure within an easement, INCLUDING, BUT NOT LIMITED TO, POLES AND CONDUIT, WITHIN AN EASEMENT. The term includes third parties with which the electricity supplier ELECTRIC COOPERATIVE CORPORATION contracts, licenses or otherwise enters into agreements with for the installation, service or maintenance of broadband infrastructure and provision of broadband services on behalf of the electricity supplier ELECTRIC COOPERATIVE CORPORATION or ITS affiliate.

"Broadband services." As follows:

(1) Service that consists of or includes the provision of broadband that:

    (i) is used to provide access to the Internet; or
    (ii) provides computer processing, information storage, information content or protocol conversion.

(2) The term includes the provision of video services, voice over Internet protocol services, wireless services and Internet protocol-enabled services.
"Easement." A recorded or unrecorded right-of-way, easement
or similar property right acquired by eminent domain,
prescription or conveyance that is used or may be used for
transmitting, distributing or providing electric service by
utilizing electric infrastructure.

"Electric cooperative corporation." As defined in 15 Pa.C.S.
§ 7302(a) (relating to application of chapter).

"Electricity supplier." A person engaged in providing
electricity, at wholesale or retail, including a public utility,
municipal corporation or authority or an electric cooperative
corporation.

§ 8202. Broadband services.

(a) Broadband facilities.--The following apply:

(1) An electric cooperative corporation or an affiliate
of an electric cooperative corporation may provide broadband
services or construct, operate and maintain broadband
facilities through an existing easement owned, held or used
by the electric cooperative corporation. AN ELECTRIC
COOPERATIVE CORPORATION MAY ONLY SUPPLY RETAIL BROADBAND
SERVICES THROUGH ONE OR MORE AFFILIATES.

(2) Except as provided for under subsection (b), the
attachment of broadband facilities shall not constitute a
change to the physical use of the easement, interfere with or
impair any vested rights of the property owner subject to the
easement or place an additional burden on the property or
interests of the owner.

(3) A broadband service supplier that is not an electric
cooperative corporation may access and attach broadband
facilities within an electric cooperative's
CORPORATION'S easement:
(i) if an electric cooperative CORPORATION or its affiliates have attached broadband facilities to provide retail or wholesale broadband services OR IF AN ELECTRIC COOPERATIVE CORPORATION, IN ITS SOLE DISCRETION, GIVES EXPRESS WRITTEN PERMISSION TO A BROADBAND SERVICE PROVIDER TO UTILIZE AN EXISTING ELECTRIC EASEMENT; and

(ii) subject to the terms of applicable safety standards, the structural integrity of the electric infrastructure and the electric cooperative corporation's rules and fees for the attachments.

(4) AN ELECTRIC COOPERATIVE CORPORATION THAT ELECTS TO PROVIDE BROADBAND SERVICES AS A BROADBAND SERVICE SUPPLIER SHALL PERMIT OTHER PROVIDERS OF SUCH SERVICES NONDISCRIMINATORY ACCESS TO ATTACH TO ELECTRIC INFRASTRUCTURE, OWNED OR CONTROLLED BY THE ELECTRIC COOPERATIVE CORPORATION, PURSUANT TO THE RATES, TERMS AND CONDITIONS COMPARABLE TO AND NO LESS FAVORABLE THAN THOSE OFFERED TO AN AFFILIATE OF AN ELECTRIC COOPERATIVE CORPORATION ENGAGED IN THE PROVISION OF RETAIL BROADBAND SERVICES.

(b) Exception.--Subsection APPLICABILITY.--EXCEPT FOR THE REPLACEMENT OR RELOCATION OF EXISTING POLES OR AS OTHERWISE PROVIDED BY LAW, SUBSECTION (a)(2) shall not apply to the attachment of broadband facilities that are additional freestanding or ground-based structures within the easement.

(C) CONSTRUCTION.--EXCEPT AS OTHERWISE PROVIDED UNDER THIS CHAPTER, NOTHING IN THIS CHAPTER SHALL LIMIT ANY OF THE RIGHTS THAT EXIST UNDER THE LAWS OF THIS COMMONWEALTH OF ANY BROADBAND SERVICE SUPPLIER TO SECURE ITS OWN EASEMENTS FOR THE CONSTRUCTION OR INSTALLATION OF BROADBAND FACILITIES OR THE
Section 2. This act shall take effect in 60 days.