

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1118 Session of 2020

INTRODUCED BY PITTMAN, BROOKS, STREET, PHILLIPS-HILL, BARTOLOTTA, SCHWANK, HUTCHINSON, BLAKE, MENSCH, J. WARD, SCARNATI, LAUGHLIN, YAW, SCAVELLO, STEFANO, AUMENT, BAKER AND BROWNE, APRIL 30, 2020

SENATOR PHILLIPS-HILL, COMMUNICATIONS AND TECHNOLOGY, AS AMENDED, JUNE 22, 2020

AN ACT

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

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

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

8 CHAPTER 82

9 BROADBAND SERVICES

10 Sec.

11 8201. Definitions.

12 8202. Broadband services.

13 § 8201. Definitions.

14 The following words and phrases when used in this chapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "AFFILIATE." A PERSON THAT DIRECTLY, OR INDIRECTLY THROUGH <--

1 ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS
2 UNDER COMMON CONTROL WITH A SPECIFIED PERSON. THE TERM INCLUDES
3 SUBSIDIARIES, PARTNERSHIPS, JOINT VENTURES AND OTHER ENTITIES
4 THAT HAVE SHARED RESOURCES, INTERESTS OR BUSINESS DEALINGS.

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

8 "Broadband services." As follows:

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

11 (i) is used to provide access to the Internet; or

12 (ii) provides computer processing, information
13 storage, information content or protocol conversion.

14 (2) The term includes the provision of video services,
15 voice over Internet protocol services, wireless services and
16 Internet protocol-enabled services.

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

30 "Easement." A recorded or unrecorded right-of-way, easement

1 or similar property right acquired by eminent domain,
2 prescription or conveyance that is used or may be used for
3 transmitting, distributing or providing electric service by
4 utilizing electric infrastructure.

5 "Electric cooperative corporation." As defined in 15 Pa.C.S.
6 § 7302(a) (relating to application of chapter).

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

11 § 8202. Broadband services.

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

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

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

26 (3) A broadband service supplier that is not an electric
27 cooperative corporation may access and attach broadband
28 facilities within an electric cooperative's COOPERATIVE <--
29 CORPORATION'S easement:

30 (i) if an electric cooperative CORPORATION or its <--

1 affiliates have attached broadband facilities to provide
2 retail or wholesale broadband services OR IF AN ELECTRIC <--
3 COOPERATIVE CORPORATION, IN ITS SOLE DISCRETION, GIVES
4 EXPRESS WRITTEN PERMISSION TO A BROADBAND SERVICE
5 PROVIDER TO UTILIZE AN EXISTING ELECTRIC EASEMENT; and
6 (ii) subject to the terms of applicable safety
7 standards, the structural integrity of the electric
8 infrastructure and the electric cooperative corporation's
9 rules and fees for the attachments.

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

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

25 (C) CONSTRUCTION.--EXCEPT AS OTHERWISE PROVIDED UNDER THIS <--
26 CHAPTER, NOTHING IN THIS CHAPTER SHALL LIMIT ANY OF THE RIGHTS
27 THAT EXIST UNDER THE LAWS OF THIS COMMONWEALTH OF ANY BROADBAND
28 SERVICE SUPPLIER TO SECURE ITS OWN EASEMENTS FOR THE
29 CONSTRUCTION OR INSTALLATION OF BROADBAND FACILITIES OR THE
30 PROVISION OF BROADBAND SERVICES.

1 Section 2. This act shall take effect in 60 days.