

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1619 Session of
2023

INTRODUCED BY RYNCAVAGE, KAUFER, MARSHALL, BOROWSKI, PICKETT,
KENYATTA, PROBST, WATRO, CABELL, FLICK, CIRESI, GREINER,
MAJOR, KUTZ, NEILSON, GAYDOS, McANDREW, STENDER, BURGOS,
MULLINS, HADDOCK AND STAMBAUGH, AUGUST 15, 2023

AS REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY
AND UTILITIES, HOUSE OF REPRESENTATIVES, AS AMENDED,
OCTOBER 3, 2023

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in powers and duties, providing for
3 double utility poles.

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

6 Section 1. Title 66 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 531. Double utility poles.

9 (a) Declaration of purpose.--The General Assembly finds and
10 declares as follows:

11 (1) The Commonwealth recognizes the temporary use of
12 double utility poles as an operational necessity, but
13 disfavors the long-term use of double utility poles on public
14 rights-of-way due to concerns regarding public safety, the
15 efficient use of public easements, ratepayer, subscriber or
16 taxpayer expense and streetscape aesthetics.

1 (2) The Commonwealth, through the commission, has
2 exercised reverse preemption over jurisdictional pole
3 attachments in accordance with 47 U.S.C. § 224 (relating to
4 pole attachments) as implemented by the commission under 52
5 Pa. Code Ch. 77 (relating to pole attachments).

6 (3) The migration of attached electric, telephone, cable
7 or other infrastructure from jurisdictional damaged or
8 outmoded utility poles to newly installed replacement utility
9 poles is within the commission's jurisdiction.

10 (b) Rulemaking.--The commission shall commence rulemaking to
11 amend 52 Pa. Code Ch. 77 to provide support for the
12 coordination and compensation for pole attachment relocation and
13 removal and establish procedures for compensation,
14 indemnification and expeditious removal of an abandoned pole
15 attachment. In commencing the rulemaking, the commission shall,
16 at a minimum, consider the following:

17 (1) The duration, place and manner of acceptable use of
18 a double utility pole.

19 (2) A requirement that a third-party utility pole
20 attacher register with the commission annually and provide
21 and maintain current contact information for a responsible
22 point of contact and legal service agent in each service
23 territory of a utility where the third-party utility pole
24 attacher has facilities.

25 (3) A procedure to allow a pole owner to provide
26 reasonable notice to an attached infrastructure owner of the
27 requirement to migrate facilities to a newly installed
28 replacement utility pole.

29 (4) The establishment of a presumptively reasonable
30 period for an attached infrastructure owner to migrate

1 facilities to a newly installed replacement utility pole.

2 (5) A procedure for a pole owner and the pole owner's
3 contractor to be compensated or indemnified for time,
4 material costs and lost opportunity costs, including
5 enforcement procedures if a third-party utility pole attacher
6 fails to act or remit payment in a timely manner, relating to
7 removing and reattaching infrastructure not migrated:

8 (i) after the presumptively reasonable period has
9 elapsed; or

10 (ii) in accordance with an order by a governing body
11 that is outside the scope of, or in addition to, a
12 contractual right of indemnification that the pole owner
13 may have via license or joint use agreement.

14 (6) A procedure for a pole owner to determine that
15 attached facilities have been abandoned and provisions for
16 compensation of the pole owner for the time, material costs
17 and lost opportunity costs relating to the transfer or
18 removal of the abandoned facilities of a third-party utility
19 pole attacher due to necessity or in accordance with an order
20 by a governing body.

21 (7) Authorizing a pole owner to require a surety bond
22 from a third-party utility pole attacher to reimburse the
23 pole owner for expenses incurred due to any of the following:

24 (i) The relocation of the third-party utility pole
25 attacher's facilities.

26 (ii) The removal of the third-party utility pole
27 attacher's facilities.

28 (iii) The recertification of a pre-existing
29 violation caused by the third-party utility pole attacher
30 to accommodate a new attachment.

1 (8) Supporting the expeditious removal of a double
2 utility pole after the removal of all attached
3 infrastructure.

4 (c) Rulemaking procedures.--No later than 90 days from the
5 effective date of this subsection, the commission shall commence
6 an advanced notice of proposed rulemaking. No later than 180
7 days from the date of commencement of the advanced notice of
8 proposed rulemaking, the commission shall submit a notice of
9 proposed rulemaking to the Legislative Reference Bureau for
10 publication in the next available issue of the Pennsylvania
11 Bulletin in accordance with the act of July 31, 1968 (P.L.769,
12 No.240), referred to as the Commonwealth Documents Law. No later
13 than 18 months after publication of the notice of proposed
14 rulemaking, the commission shall seek approval of the final-form
15 regulations in accordance with the act of October 15, 1980
16 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and
17 the act of June 25, 1982 (P.L.633, No.181), known as the
18 Regulatory Review Act.

19 (D) NONRECOVERABLE COSTS.--COSTS INCURRED BY A UTILITY UNDER <--
20 THIS SECTION SHALL NOT BE RECOVERABLE FROM RATEPAYERS.

21 ~~(d)~~ (E) Definitions.--As used in this section, the term <--
22 "double utility pole" means an area where a full or remnant part
23 of a damaged or outmoded utility pole remains present or in
24 service after the installation of a newly installed replacement
25 utility pole because the attached electric, telephone, cable or
26 other infrastructure has not migrated from the damaged or
27 outmoded utility pole to the newly installed replacement utility
28 pole.

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