

HOUSE BILL 541

C5

5lr0432

By: Delegates Barkley, Tarlau, Angel, Atterbeary, Aumann, Barron, Brooks, Carr, Chang, Clippinger, Dumais, Ebersole, Fennell, Frick, Frush, Gaines, Glenn, C. Howard, Impallaria, Jackson, Jalisi, Korman, Kramer, McCray, A. Miller, Moon, Pena-Melnyk, Platt, S. Robinson, Smith, Sophocleus, Stein, Valderrama, Valentino-Smith, Waldstreicher, A. Washington, and Zucker

Introduced and read first time: February 11, 2015

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2015

CHAPTER _____

1 AN ACT concerning

2 ~~Utility Companies – Removal of Facility Equipment From Utility Poles~~ Public
3 Service Commission – Attachments to Utility Poles – Study

4 FOR the purpose of requiring ~~certain electric companies and telephone companies to~~
5 ~~coordinate with certain entities the timing of the removal of certain facility~~
6 ~~equipment so that certain facility equipment and certain poles are removed within a~~
7 ~~certain period of time; authorizing the Public Service Commission to adopt certain~~
8 ~~regulations or issue certain orders; requiring the Commission to require certain~~
9 ~~electric companies and telephone companies to file certain information with the~~
10 ~~Commission; requiring the Commission to take certain corrective action after a~~
11 ~~certain consideration; authorizing the Commission to impose a certain civil penalty~~
12 ~~in addition to certain other penalties; requiring the Commission to determine the~~
13 ~~amount of any civil penalty after consideration of certain factors; requiring a certain~~
14 ~~civil penalty to be paid into the General Fund; prohibiting certain electric companies~~
15 ~~and telephone companies from recovering the cost of a certain civil penalty from~~
16 ~~ratepayers; defining certain terms; and generally relating to the removal of facility~~
17 ~~equipment from poles owned by utility companies~~ the Public Service Commission to
18 convene a workgroup of interested persons to study attachments to utility poles in
19 Maryland; requiring the workgroup to examine certain matters relating to pole
20 attachments; requiring the Commission to report to the General Assembly on or
21 before a certain date; providing for the termination of this Act; and generally relating

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 to a study by the Public Service Commission on attachments to utility poles in
 2 Maryland.

3 ~~BY adding to~~

4 ~~Article — Public Utilities~~

5 ~~Section 7-215 and 8-109~~

6 ~~Annotated Code of Maryland~~

7 ~~(2010 Replacement Volume and 2014 Supplement)~~

8 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,~~
 9 ~~That the Laws of Maryland read as follows:~~

10 ~~Article — Public Utilities~~

11 ~~7-215.~~

12 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 13 ~~INDICATED.~~

14 ~~(2) "FACILITY EQUIPMENT" MEANS LINES, CABLES, STREET LIGHTS,~~
 15 ~~SUPPORTS FOR TRAFFIC SIGNALS, SIGNAGE, OR ANY OTHER EQUIPMENT OR~~
 16 ~~FIXTURE ATTACHED TO A POLE OWNED BY AN ELECTRIC COMPANY.~~

17 ~~(3) "THIRD PARTY ATTACHING ENTITY" MEANS:~~

18 ~~(I) A TELEPHONE COMPANY;~~

19 ~~(II) A CABLE TELEVISION COMPANY;~~

20 ~~(III) A TELECOMMUNICATIONS COMPANY;~~

21 ~~(IV) A GOVERNMENTAL UNIT; OR~~

22 ~~(V) ANY OTHER ENTITY THAT ATTACHES FACILITY EQUIPMENT~~
 23 ~~TO A POLE OWNED BY AN ELECTRIC COMPANY.~~

24 ~~(B) THIS SECTION APPLIES TO AN ELECTRIC COMPANY THAT PLANS TO~~
 25 ~~REMOVE AN EXISTING POLE THAT:~~

26 ~~(1) THE ELECTRIC COMPANY OWNS;~~

27 ~~(2) THE ELECTRIC COMPANY PLANS TO REPLACE WITH A NEW POLE;~~

28 ~~AND~~

~~(3) IS USED BY A THIRD PARTY ATTACHING ENTITY AUTHORIZED BY THE ELECTRIC COMPANY TO ATTACH FACILITY EQUIPMENT.~~

~~(c) (1) (i) ON OR AFTER OCTOBER 1, 2015, IF AN ELECTRIC COMPANY INSTALLS A POLE THAT REPLACES AN EXISTING POLE, THE ELECTRIC COMPANY SHALL COORDINATE WITH EACH THIRD PARTY ATTACHING ENTITY THE TIMING OF THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO THE EXISTING POLE SO THAT EACH THIRD PARTY ATTACHING ENTITY REMOVES ITS FACILITY EQUIPMENT WITHIN 60 DAYS AFTER RECEIVING NOTIFICATION OF THE INSTALLATION OF THE REPLACEMENT POLE.~~

~~(ii) THE ELECTRIC COMPANY SHALL REMOVE THE EXISTING POLE WITHIN 60 DAYS AFTER ALL FACILITY EQUIPMENT ATTACHED TO THE EXISTING POLE HAS BEEN REMOVED.~~

~~(2) IF AN ELECTRIC COMPANY INSTALLED A POLE BEFORE OCTOBER 1, 2015, TO REPLACE AN EXISTING POLE THAT HAS NOT BEEN REMOVED, THE ELECTRIC COMPANY SHALL COORDINATE WITH EACH THIRD PARTY ATTACHING ENTITY THE TIMING OF THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO THE EXISTING POLE SO THAT, ON OR BEFORE DECEMBER 31, 2016:~~

~~(i) ALL FACILITY EQUIPMENT IS REMOVED FROM THE EXISTING POLE; AND~~

~~(ii) THE EXISTING POLE IS REMOVED.~~

~~(d) (1) THE COMMISSION MAY ADOPT REGULATIONS OR ISSUE ORDERS TO ESTABLISH A PROCESS FOR THE COORDINATION BY THE ELECTRIC COMPANY OF THE REMOVAL OF FACILITY EQUIPMENT OF EACH THIRD PARTY ATTACHING ENTITY FROM AN EXISTING POLE THAT IS REPLACED AND THE REMOVAL OF THE EXISTING POLE.~~

~~(2) THE COMMISSION SHALL REQUIRE AN ELECTRIC COMPANY THAT IS SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION TO FILE WITH THE COMMISSION INFORMATION, AS THE COMMISSION DETERMINES, SPECIFYING A SCHEDULE AND PHASING FOR THE REMOVAL OF ALL FACILITY EQUIPMENT OF THIRD PARTY ATTACHING ENTITIES FROM ALL EXISTING POLES THAT ARE REPLACED AND THE REMOVAL OF THE EXISTING POLES.~~

~~(e) (1) AFTER CONSIDERATION OF ANY IMPEDIMENTS TO COMPLIANCE WITH THIS SECTION, THE COMMISSION SHALL TAKE APPROPRIATE CORRECTIVE ACTION AGAINST AN ELECTRIC COMPANY THAT FAILS TO COMPLY WITH THIS SECTION, INCLUDING THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR NONCOMPLIANCE UNDER THIS SUBSECTION.~~

1 ~~(2) (i) THE COMMISSION MAY IMPOSE A CIVIL PENALTY NOT~~
2 ~~EXCEEDING \$250 FOR EACH VIOLATION AGAINST AN ELECTRIC COMPANY THAT~~
3 ~~FAILS TO COMPLY WITH THIS SECTION.~~

4 ~~(ii) A CIVIL PENALTY MAY BE IMPOSED IN ADDITION TO ANY~~
5 ~~OTHER PENALTY AUTHORIZED BY THIS DIVISION.~~

6 ~~(iii) EACH VIOLATION IS A SEPARATE OFFENSE.~~

7 ~~(iv) EACH DAY OR PART OF A DAY THE VIOLATION CONTINUES IS~~
8 ~~A SEPARATE VIOLATION.~~

9 ~~(3) THE COMMISSION SHALL DETERMINE THE AMOUNT OF ANY CIVIL~~
10 ~~PENALTY AFTER CONSIDERING:~~

11 ~~(i) THE NUMBER OF PREVIOUS VIOLATIONS OF THIS SECTION;~~

12 ~~(ii) THE GRAVITY OF THE CURRENT VIOLATION;~~

13 ~~(iii) THE GOOD FAITH EFFORTS OF THE ELECTRIC COMPANY IN~~
14 ~~ATTEMPTING TO ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE VIOLATION;~~
15 ~~AND~~

16 ~~(iv) ANY OTHER MATTER THAT THE COMMISSION CONSIDERS~~
17 ~~APPROPRIATE AND RELEVANT.~~

18 ~~(4) A CIVIL PENALTY COLLECTED UNDER THIS SECTION SHALL BE~~
19 ~~PAID INTO THE GENERAL FUND OF THE STATE.~~

20 ~~(5) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST OF ANY~~
21 ~~CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.~~

22 ~~§ 109.~~

23 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
24 ~~INDICATED.~~

25 ~~(2) "FACILITY EQUIPMENT" MEANS LINES, CABLES, STREET LIGHTS,~~
26 ~~SUPPORTS FOR TRAFFIC SIGNALS, SIGNAGE, OR ANY OTHER EQUIPMENT OR~~
27 ~~FIXTURE ATTACHED TO A POLE OWNED BY A TELEPHONE COMPANY.~~

28 ~~(3) "THIRD PARTY ATTACHING ENTITY" MEANS:~~

29 ~~(i) AN ELECTRIC COMPANY;~~

1 ~~(II) A CABLE TELEVISION COMPANY;~~

2 ~~(III) A TELECOMMUNICATIONS COMPANY;~~

3 ~~(IV) A GOVERNMENTAL UNIT; OR~~

4 ~~(V) ANY OTHER ENTITY THAT ATTACHES FACILITY EQUIPMENT~~
5 ~~TO A POLE OWNED BY A TELEPHONE COMPANY.~~

6 ~~(B) THIS SECTION APPLIES TO A TELEPHONE COMPANY THAT PLANS TO~~
7 ~~REMOVE AN EXISTING POLE THAT:~~

8 ~~(1) THE TELEPHONE COMPANY OWNS;~~

9 ~~(2) THE TELEPHONE COMPANY PLANS TO REPLACE WITH A NEW~~
10 ~~POLE; AND~~

11 ~~(3) IS USED BY A THIRD PARTY ATTACHING ENTITY AUTHORIZED BY~~
12 ~~THE TELEPHONE COMPANY TO ATTACH FACILITY EQUIPMENT.~~

13 ~~(C) (1) (I) ON OR AFTER OCTOBER 1, 2015, IF A TELEPHONE COMPANY~~
14 ~~INSTALLS A POLE THAT REPLACES AN EXISTING POLE, THE TELEPHONE COMPANY~~
15 ~~SHALL COORDINATE WITH EACH THIRD PARTY ATTACHING ENTITY THE TIMING OF~~
16 ~~THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO THE EXISTING POLE SO~~
17 ~~THAT EACH THIRD PARTY ATTACHING ENTITY REMOVES ITS FACILITY EQUIPMENT~~
18 ~~WITHIN 60 DAYS AFTER RECEIVING NOTIFICATION OF THE INSTALLATION OF THE~~
19 ~~REPLACEMENT POLE.~~

20 ~~(II) THE TELEPHONE COMPANY SHALL REMOVE THE EXISTING~~
21 ~~POLE WITHIN 60 DAYS AFTER ALL FACILITY EQUIPMENT ATTACHED TO THE~~
22 ~~EXISTING POLE HAS BEEN REMOVED.~~

23 ~~(2) IF A TELEPHONE COMPANY INSTALLED A POLE BEFORE OCTOBER~~
24 ~~1, 2015, TO REPLACE AN EXISTING POLE THAT HAS NOT BEEN REMOVED, THE~~
25 ~~TELEPHONE COMPANY SHALL COORDINATE WITH EACH THIRD PARTY ATTACHING~~
26 ~~ENTITY THE TIMING OF THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO~~
27 ~~THE EXISTING POLE SO THAT, ON OR BEFORE DECEMBER 31, 2016:~~

28 ~~(I) ALL FACILITY EQUIPMENT IS REMOVED FROM THE EXISTING~~
29 ~~POLE; AND~~

30 ~~(II) THE EXISTING POLE IS REMOVED.~~

~~(D) (1) THE COMMISSION MAY ADOPT REGULATIONS OR ISSUE ORDERS TO ESTABLISH A PROCESS FOR THE COORDINATION BY THE TELEPHONE COMPANY OF THE REMOVAL OF FACILITY EQUIPMENT OF EACH THIRD PARTY ATTACHING ENTITY FROM AN EXISTING POLE THAT IS REPLACED AND THE REMOVAL OF THE EXISTING POLE.~~

~~(2) THE COMMISSION SHALL REQUIRE A TELEPHONE COMPANY THAT IS SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION TO FILE WITH THE COMMISSION INFORMATION, AS THE COMMISSION DETERMINES, SPECIFYING A SCHEDULE AND PHASING FOR THE REMOVAL OF ALL FACILITY EQUIPMENT OF THIRD PARTY ATTACHING ENTITIES FROM ALL EXISTING POLES THAT ARE REPLACED AND THE REMOVAL OF THE EXISTING POLES.~~

~~(E) (1) AFTER CONSIDERATION OF ANY IMPEDIMENTS TO COMPLIANCE WITH THIS SECTION, THE COMMISSION SHALL TAKE APPROPRIATE CORRECTIVE ACTION AGAINST A TELEPHONE COMPANY THAT FAILS TO COMPLY WITH THIS SECTION, INCLUDING THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR NONCOMPLIANCE UNDER THIS SUBSECTION.~~

~~(2) (I) THE COMMISSION MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$250 FOR EACH VIOLATION AGAINST A TELEPHONE COMPANY THAT FAILS TO COMPLY WITH THIS SECTION.~~

~~(II) A CIVIL PENALTY MAY BE IMPOSED IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY THIS DIVISION.~~

~~(III) EACH VIOLATION IS A SEPARATE OFFENSE.~~

~~(IV) EACH DAY OR PART OF A DAY THE VIOLATION CONTINUES IS A SEPARATE VIOLATION.~~

~~(3) THE COMMISSION SHALL DETERMINE THE AMOUNT OF ANY CIVIL PENALTY AFTER CONSIDERING:~~

~~(I) THE NUMBER OF PREVIOUS VIOLATIONS OF THIS SECTION;~~

~~(II) THE GRAVITY OF THE CURRENT VIOLATION;~~

~~(III) THE GOOD FAITH EFFORTS OF THE TELEPHONE COMPANY IN ATTEMPTING TO ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE VIOLATION; AND~~

~~(IV) ANY OTHER MATTER THAT THE COMMISSION CONSIDERS APPROPRIATE AND RELEVANT.~~

1 ~~(4) A CIVIL PENALTY COLLECTED UNDER THIS SECTION SHALL BE~~
2 ~~PAID INTO THE GENERAL FUND OF THE STATE.~~

3 ~~(5) A TELEPHONE COMPANY MAY NOT RECOVER THE COST OF ANY~~
4 ~~CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.~~

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

6 That:

7 (a) The Public Service Commission shall convene a workgroup of interested
8 persons to study attachments to utility poles in Maryland.

9 (b) In conducting the study the workgroup shall examine:

10 (1) whether regulation of pole attachment agreements at the State level is
11 in the public interest;

12 (2) the rates currently charged by utilities for pole attachments;

13 (3) whether access to poles and other utility infrastructure by third parties
14 is just and reasonable;

15 (4) the types of technology currently being attached to poles, and the
16 positioning of the technology on the poles;

17 (5) the prevalence of double poles in the State;

18 (6) the quality and effectiveness of the notice between utilities and the
19 utilities' pole attachment customers regarding removal or modifications of facilities, rates,
20 and the termination of pole attachment agreements;

21 (7) the resources necessary to effectively regulate pole attachments in the
22 State; and

23 (8) any additional issues related to pole attachments in the State.

24 (c) On or before December 31, 2015, the Public Service Commission shall report
25 its findings and recommendations to the General Assembly, in accordance with § 2-1246 of
26 the State Government Article.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 ~~October 1, 2015.~~ June 1, 2015. It shall remain effective for a period of 1 year and 1 month
29 and, at the end of June 30, 2016, with no further action required by the General Assembly,
30 this Act shall be abrogated and of no further force and effect.