



An Exelon Company

Position Statement

OPPOSE
Senate Finance Committee
03/09/2021

SB 754 Public Service Commission – Damaged, Obsolete or Excessive Lines - Fines

Baltimore Gas and Electric Company (BGE) opposes *Senate Bill 754 Public Service Commission – Damaged, Obsolete or Excessive Lines – Fines*, which requires the Public Service Commission (Commission) to require the owner of a utility pole to require the person that controls the damaged or dangling line or lines to investigate and repair or remove the offending lines within 30 days after receiving notice from the Commission. The bill requires that if the offending lines are not repaired or removed by the person who controls the lines within 90 days after the Commission notifies the utility pole owner, the owner of the utility pole is fined \$250.00 for each day of noncompliance.

BGE understands the frustration regarding unsightly lines or equipment attached to utility poles. Unfortunately, however, this bill is not the appropriate way in which to address the issue and is problematic on multiple levels. The bill attempts to shift responsibility for the maintenance of a damaged or dangling line from the actual responsible party of the line to the utility pole owner in a manner that is neither effective in accomplishing the intended goal nor prudent. While BGE is the sole or joint owner of utility poles within our service territory, other service providers, including telecommunications companies, attach their lines to those poles. BGE's electric lines sit highest on any utility pole and most often a line that is damaged or dangling belongs to one of the attaching companies rather than BGE.

The bill as written suggests that BGE will have the ability and absolute authority to require another company to repair or remove lines in question in all circumstances. This is not accurate. Currently, while BGE may notify a company of its need to remove or repair lines in a timely fashion, BGE has no absolute authority to ensure this happens unless the line is directly impacting the safety or reliability of the electric system, which is not always the case with damaged or obsolete lines. Establishing a law that penalizes a company for its inability to regulate the behavior of another company would be misplaced policy. BGE should not be penalized and incur fines for something largely outside of its control. BGE is not a regulatory body, and while the Commission regulates BGE, BGE cannot in turn regulate another company attaching lines to BGE's poles in all circumstances.

Additionally, the provision regarding "blight or public nuisance caused by an excessive number of lines" is vague and subject to numerous interpretations. Who determines what is "blight"? Who determines what is a "public nuisance"? Who determines what is an "excessive" number of lines? It may be that numerous lines are

necessary in particular areas where undergrounding lines is not feasible and the lines are needed to adequately provide varying services to customers in that area.

The bill gives no discretion to the Commission about whether it needs to notify the pole owner of a complaint -- the bill mandates prompt notification upon receipt of a complaint, regardless of the circumstances. This ambiguity in the legislation regarding what constitutes an actionable complaint is very problematic. The ambiguity continues in determining how to define what is an "obsolete" or "redundant" line. A line may appear to be redundant or obsolete, but is not. The concern is that BGE will be deploying resources actively responding to numerous complaints only to determine that the line at issue is still necessary and/or in operation, or will not be able to determine this information at all because it is not BGE equipment at issue.

Finally, it is not clear that the Commission would even have the authority or jurisdiction to levy a fine regarding these matters. Currently, matters related to pole attachments in Maryland by telecommunications companies such as Verizon, Comcast and AT&T are regulated by the Federal Communications Commission (FCC). The Commission does not have the authority to dictate the terms and conditions of pole attachment agreements or pole attachments (including lines), absent a direct impact on the safety or reliability of the electric system or the traditional copper telephone line system. This issue most recently came up in the PC38 pole attachment matter before the Commission several years ago. Additionally, Maryland's highest court has opined that the Commission only has jurisdiction over matters directly germane to the provision of public service, and cannot dictate, for example, rental rates or other terms and conditions for telecommunications equipment or other attachments made to utility poles. See Chesapeake and Potomac Telephone Company of Maryland v. Maryland/Delaware Cable Television Association, 310 Md. 553 (1987).

While BGE understands the concern that the bill attempts to address, the bill fails to provide a solution to that concern, and instead creates additional unnecessary problems that should be avoided.

For these reasons, BGE respectfully request an unfavorable report on this legislation.

BGE, headquartered in Baltimore, is Maryland's largest gas and electric utility, delivering power to more than 1.2 million electric customers and more than 655,000 natural gas customers in central Maryland. The company's approximately 3,400 employees are committed to the safe and reliable delivery of gas and electricity, as well as enhanced energy management, conservation, environmental stewardship and community assistance. BGE is a subsidiary of Exelon Corporation (NYSE: EXC), the nation's leading competitive energy provider.