

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1123 Session of
2024

INTRODUCED BY COLEMAN, BREWSTER AND MASTRIANO, APRIL 5, 2024

REFERRED TO COMMUNICATIONS AND TECHNOLOGY, APRIL 5, 2024

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for facilitating access for
3 streamlining telecommunications and establishing the
4 Facilitating Access for Streamlining Telecommunications
5 (FAST) Program.

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

8 Section 1. Subpart D of Part I of Title 66 of the
9 Pennsylvania Consolidated Statutes is amended by adding a
10 chapter to read:

11 CHAPTER 30A

12 FACILITATING ACCESS FOR STREAMLINING TELECOMMUNICATIONS

13 Sec.

14 30A01. Scope of chapter.

15 30A02. Legislative findings and declarations.

16 30A03. Definitions.

17 30A04. Facilitating Access for Streamlining Telecommunications
18 (FAST) Program.

19 30A05. Pole attachments.

20 30A06. Restoration.

1 30A07. Fees imposed by municipalities.

2 30A08. Fiber.

3 30A09. Application by attacher.

4 30A10. Construction.

5 § 30A01. Scope of chapter.

6 This chapter relates to facilitating access for streamlining
7 telecommunications.

8 § 30A02. Legislative findings and declarations.

9 The General Assembly finds and declares as follows:

10 (1) Pennsylvanians need improved access to high-speed
11 Internet now more than ever to meet a variety of demands,
12 including remote work, distance learning, telehealth,
13 emergency response and public safety, agriculture, innovation
14 and a competitive economic environment nationally.

15 (2) Deployment of broadband infrastructure is critical
16 to connect more Pennsylvanians to high-speed Internet.

17 (3) High-speed Internet is delivered to Pennsylvanians
18 through wireline and wireless broadband infrastructure.

19 (4) Wireless broadband service relies on wireline
20 facilities, especially high-speed, high-capacity fiber
21 backhaul lines, which are installed either aerially or
22 underground.

23 (5) Construction methods to install fiber include
24 underground, through trenching and boring, and overhead, with
25 attachment to existing utility poles.

26 (6) Expediting fiber deployment, while ensuring the
27 safety of Pennsylvania's utility networks, will help
28 accelerate the availability of high-speed Internet access
29 across this Commonwealth.

30 § 30A03. Definitions.

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

4 "Approved contractor." A contractor authorized by a pole
5 owner, attacher or preexisting third-party user to incur
6 eligible costs.

7 "Attacher." An individual, corporation, limited liability
8 company, partnership, limited liability partnership,
9 organization, association or other entity that seeks to
10 permanently or temporarily attach any type of facilities for a
11 pole or have other related work performed for the purpose of
12 supporting or improving the deployment of broadband in an
13 underserved area or unserved area.

14 "Broadband." As defined in section 3012 (relating to
15 definitions).

16 "Eligible costs." As follows:

17 (1) The actual, reasonable and documented costs to
18 attach any type of facilities for a pole or have other
19 related work performed for the purpose of supporting or
20 improving the deployment of broadband in an underserved area
21 or unserved area.

22 (2) The term includes the actual, reasonable and
23 documented costs associated with any of the following:

24 (i) The correction of preexisting conditions for a
25 pole.

26 (ii) The replacement or relocation of any type of
27 facilities for a pole.

28 (iii) The replacement or relocation of a pole for
29 safety reasons.

30 (iv) A survey or other preparation work regarding an

1 action described in subparagraph (i), (ii) or (iii).

2 (v) An inspection of a completed action described in
3 subparagraph (i), (ii) or (iii).

4 (vi) Any permit required to perform an action
5 described in subparagraph (i), (ii) or (iii).

6 "Facilities." Facilities that are typically attached to a
7 pole or placed underground, including, without limitation,
8 electric and communication lines, antennas, fiber or related
9 equipment or attachments.

10 "Fiber." Fiber optic cables and related ancillary equipment,
11 including conduits, ducts, innerducts, ancillary cables,
12 handholes, vaults and terminals.

13 "Municipality." A county, city, town, borough, township or
14 school district of this Commonwealth.

15 "Pole." A pole that is:

16 (1) used in whole or in part for wire communications or
17 electric distribution, including a pole used to provide
18 street light illumination;

19 (2) located in a right-of-way or the adjacent ground
20 space of the right-of-way; and

21 (3) owned, operated or controlled by a pole owner.

22 "Pole owner." Any of the following that owns, operates or
23 controls a pole:

24 (1) A municipality.

25 (2) A utility that is owned, operated or controlled by a
26 municipality.

27 (3) A cooperative corporation or association.

28 "Preexisting third-party user." The owner of facilities for
29 a pole that are in place when a pole owner or attacher seeks to
30 incur eligible costs.

1 "Program." The Facilitating Access for Streamlining
2 Telecommunications (FAST) Program established under section
3 30A04(a) (relating to Facilitating Access for Streamlining
4 Telecommunications (FAST) Program).

5 "Right-of-way." The area on, below or above a public
6 roadway, highway, street, sidewalk, alley, utility easement or
7 similar property.

8 "Underserved area." As defined in 64 Pa.C.S. § 6102
9 (relating to definitions).

10 "Unserved area." As defined in 64 Pa.C.S. § 6102.
11 § 30A04. Facilitating Access for Streamlining
12 Telecommunications (FAST) Program.

13 (a) Establishment.--The Facilitating Access for Streamlining
14 Telecommunications (FAST) Program is established within the
15 commission to provide reimbursements for eligible costs.

16 (b) Application.--

17 (1) A pole owner, attacher or preexisting third-party
18 user may seek reimbursement for eligible costs incurred by
19 the pole owner, attacher or preexisting third-party user by
20 submitting an application to the commission, in a form and
21 manner specified by the commission.

22 (2) A completed application under this subsection must
23 contain the following:

24 (i) The name, address, telephone number and other
25 contact information of the pole owner, attacher or
26 preexisting third-party user seeking reimbursement.

27 (ii) The location of any pole or related work
28 associated with the reimbursement.

29 (iii) The facilities involved for any pole or
30 related work associated with the reimbursement.

1 (iv) A breakdown of the eligible costs associated
2 with the reimbursement, including the name, address,
3 telephone number and other contact information of any
4 approved contractor.

5 (v) Verification of the eligible costs associated
6 with the reimbursement.

7 (c) Determination.--After receipt of a completed application
8 under subsection (b), the commission shall review the submitted
9 application and shall determine whether to approve the
10 reimbursement and, if so, the amount of the reimbursement. The
11 following apply:

12 (1) The commission shall approve or deny the
13 application, in whole or in part, no later than 60 days after
14 the receipt of the application.

15 (2) Subject to paragraph (3), if the commission fails to
16 approve or deny the application within 60 days after the
17 receipt of the application, the application shall be deemed
18 approved.

19 (3) The commission shall provide written notification to
20 the applicant that the applicant's application is incomplete.
21 The notification shall provide the applicant with information
22 necessary to complete the determination process and shall
23 inform the applicant that the review period will be tolled
24 until the requisite information is provided to the
25 commission.

26 (d) Notice.--

27 (1) The commission shall provide to a pole owner,
28 attacher or preexisting third-party user seeking
29 reimbursement written notice of the approval or denial, in
30 whole or in part, of the reimbursement requested, including

1 the amount of any reimbursement approved.

2 (2) Notice of the denial of reimbursement, in whole or
3 in part, shall include the reasons for the denial.

4 (e) Limitations.--

5 (1) Reimbursements under the program shall be disbursed
6 on a first-come, first-served basis determined by the
7 commission.

8 (2) The commission shall implement any necessary policy
9 or procedure to administer the program.

10 § 30A05. Pole attachments.

11 (a) Regulation.--Each pole of a pole owner is subject to 52
12 Pa. Code Ch. 77 (relating to pole attachments) on the same basis
13 as if the pole owner were a public utility.

14 (b) Commission authorization.--The commission shall regulate
15 the rates, terms and conditions of attachments to a pole of a
16 pole owner.

17 (c) Access.--A pole owner shall provide an attacher access
18 to a pole of the pole owner on just, reasonable and
19 nondiscriminatory rates, terms and conditions, as established in
20 52 Pa. Code Ch. 77.

21 (d) Disputes.--If a dispute arises regarding the rates,
22 terms and conditions of access to a pole of a pole owner, the
23 commission shall apply the regulations under 52 Pa. Code Ch. 77
24 to ensure that the rates, terms and conditions of attachments to
25 the pole are just, reasonable and nondiscriminatory.

26 § 30A06. Restoration.

27 Except as provided in this chapter, in accordance with 15
28 Pa.C.S. § 1511(e) (relating to additional powers of certain
29 public utility corporations), any requirements imposed by the
30 governmental authority having responsibility for restoration of

1 streets, highways or public ways following the installation,
2 maintenance, repair, modification or removal of facilities,
3 whether the requirements are imposed by ordinance, regulation,
4 permit or other means, shall not exceed the restoration
5 standards adopted by the Department of Transportation as
6 specified in 67 Pa. Code §§ 459.8 (relating to special
7 conditions - subsurface operations) and 459.9 (relating to
8 special conditions, aboveground facilities).

9 § 30A07. Fees imposed by municipalities.

10 (a) Authorization.--A municipality may impose a fee on an
11 application for a permit to install underground facilities on a
12 competitively neutral basis equal to the reasonable costs of
13 providing the services by the municipality for which the fee is
14 charged.

15 (b) Reasonable costs.--For purposes of subsection (a),
16 reasonable costs shall be limited to the reasonable costs of the
17 municipality to process and issue the permit and inspect the
18 installation that is the subject of the permit, including any
19 costs incurred if the applicant for the permit elects to
20 expedite processing and review.

21 § 30A08. Fiber.

22 (a) Prohibition.--A municipality may not prohibit, or
23 unreasonably discriminate in favor of or against, the use of
24 aerial installations, open trenching, boring or any other
25 installation method for fiber.

26 (b) Conditions.--If aboveground facilities already exist, a
27 municipality shall allow fiber to be installed in the same
28 manner as the existing aboveground facilities, even if the
29 municipality has adopted an undergrounding ordinance requiring
30 all relevant parties to bury existing aboveground facilities,

1 except that an attacher shall place its fiber underground at the
2 same time that other utilities remove their aerial facilities in
3 accordance with the undergrounding ordinance.

4 § 30A09. Application by attacher.

5 (a) Application required.--To permanently or temporarily
6 attach any type of facilities for a pole or have other related
7 work performed for the purpose of supporting or improving the
8 deployment of broadband in an underserved area or unserved area,
9 an attacher must submit an application to the municipality in
10 which the pole is located or the related work is to be
11 performed.

12 (b) Contents.--A completed application under this section
13 must contain the following:

14 (1) The name, address, telephone number and other
15 contact information of the attacher.

16 (2) The location or address of the pole or where the
17 related work is to be performed.

18 (3) The type of proposed work and facilities involved.

19 (4) The name, address, telephone number and other
20 contact information of the approved contractor that will
21 perform the proposed work.

22 (5) The proposed timeline for the proposed work.

23 (6) The anticipated costs of the proposed work.

24 (c) Determination.--Within 30 days of the submittal of a
25 completed application to a municipality, the municipality shall
26 issue a written decision to approve or deny the application. The
27 following apply:

28 (1) If a written decision has not been issued within the
29 30-day period, the application shall be deemed approved by
30 the municipality and all necessary permits sought by the

1 application shall be deemed to have been issued.

2 (2) The municipality may deny an application that fails
3 to meet reasonable guidelines established under this section.

4 (3) The municipality shall provide to the applicant
5 under this section the reasons in writing for any denial of
6 the application.

7 (4) An applicant under this section may cure the
8 deficiencies identified in the application denial and submit
9 a revised application at no additional cost to the applicant.

10 The following apply:

11 (i) The municipality shall review only the portion
12 of the revised application relating to the deficiencies
13 initially identified.

14 (ii) Within 10 days of the submittal of the revised
15 application, the municipality shall approve or deny the
16 revised application.

17 (d) Designation.--A municipality shall include a method to
18 designate applications submitted under this section as being
19 submitted by an entity deploying broadband service.

20 (e) Authority of municipality.--In administering the
21 provisions of this section, a municipality may:

22 (1) Determine reasonable guidelines for the installation
23 of facilities in a right-of-way of the municipality to
24 prevent an activity from interfering with or endangering the
25 public use of the right-of-way.

26 (2) Require an applicant under this section to promptly
27 repair any damage caused by the applicant or an agent of the
28 applicant.

29 (3) Require an applicant under this section to execute
30 an affidavit evidencing financial responsibility or obtain

1 commercially reasonable insurance that demonstrates adequate
2 resources to repair any damage caused by the applicant or an
3 agent of the applicant.

4 § 30A10. Construction.

5 Nothing in this chapter shall supersede, nullify or otherwise
6 alter the requirements to comply with local safety standards,
7 including the act of December 10, 1974 (P.L.852, No.287),
8 referred to as the Underground Utility Line Protection Law, or
9 safety standards established by the commission.

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