

SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT ACT (EXCERPT)
Act 365 of 2018

***** 460.1319.new THIS NEW SECTION IS EFFECTIVE MARCH 12, 2019 *****

460.1319.new Authority poles; exclusive arrangement prohibited; limitation on rates, fees, and terms; elimination of aboveground poles.

Sec. 19. (1) An authority shall not enter into an exclusive arrangement with any person for the right to attach to authority poles. A person who purchases, controls, or otherwise acquires an authority pole is subject to the requirements of this section.

(2) The rate for the collocation of small cell wireless facilities on authority poles shall be nondiscriminatory regardless of the services provided by the collocating person. The rate shall not exceed \$30.00 per year per authority pole. Every 5 years after the effective date of this act, the maximum rate then authorized under this subsection is increased by 10% and rounded to the nearest dollar. This rate for the collocation of small cell wireless facilities on authority poles is in addition to any rate charged for the use of the ROW under section 13.

(3) If, on the effective date of this act, an authority has a rate, fee, or other term in an ordinance or in an agreement with a wireless provider that does not comply with this section, the authority shall, not later than 90 days after the effective date of this act, revise the rate, fee, or term to comply with this section. Both of the following apply:

(a) An ordinance or an agreement between an authority and a wireless provider that is in effect on the effective date of this act and that relates to the collocation on authority poles of small cell wireless facilities installed and operational before the effective date of this act remains in effect as it relates to those collocations, subject to termination provisions in the ordinance or agreement.

(b) The rates, fees, and terms established under this section apply to the collocation on authority poles of small cell wireless facilities that are installed and operational after the rates, fees, and terms take effect.

(4) Within 90 days after receiving the first request to colocate a small cell wireless facility on an authority pole, the authority shall make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small cell wireless facilities on the authority poles. The rates, fees, and terms shall comply with all of the following:

(a) The rates, fees, and terms shall be nondiscriminatory, competitively neutral, and commercially reasonable and shall comply with this act.

(b) The authority shall provide a good-faith estimate for any make-ready work within 60 days after receipt of a complete application. Make-ready work shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant.

(c) The person owning or controlling the authority pole shall not require more make-ready work than required to comply with law or industry standards.

(d) Fees for make-ready work shall not do any of the following:

(i) Include costs related to preexisting or prior damage or noncompliance unless the damage or noncompliance was caused by the applicant.

(ii) Include any unreasonable consultant fees or expenses.

(iii) Exceed actual costs imposed on a nondiscriminatory basis.

(5) This section does not require an authority to install or maintain any specific authority pole or to continue to install or maintain authority poles in any location if the authority makes a nondiscriminatory decision to eliminate aboveground poles of a particular type generally, such as electric utility poles, in a designated area of its geographic jurisdiction. For authority poles with colocated small cell wireless facilities in place when an authority makes a decision to eliminate aboveground poles of a particular type, the authority shall do 1 of the following:

(a) Continue to maintain the authority pole.

(b) Install and maintain a reasonable alternative pole or wireless support structure for the collocation of the small cell wireless facility.

(c) Offer to sell the pole to the wireless provider at a reasonable cost.

(d) Allow the wireless provider to install its own utility pole so it can maintain service from that location.

(e) Proceed as provided by an agreement between the authority and the wireless provider.

History: 2018, Act 365, Eff. Mar. 12, 2019.