



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2561

Introduced 2/19/2021, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

50 ILCS 840/15

was 50 ILCS 835/15

Amends the Small Wireless Facilities Deployment Act. In provisions relating to the permit application process for an applicant to collocate a small wireless facility, allows an authority to require an applicant or site developer to provide probative evidence in the form of hard data recorded during a drive test performed by an independent radio-frequency engineer selected by the authority to support gap-in-coverage claims to establish (i) the existence of a real gap in the specific carrier's wireless coverage, (ii) the location of the gap, and (iii) the geographical boundaries of the gap.

LRB102 14490 AWJ 19843 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Small Wireless Facilities Deployment Act is
5 amended by changing Section 15 as follows:

6 (50 ILCS 840/15) (was 50 ILCS 835/15)

7 (Section scheduled to be repealed on June 1, 2021)

8 Sec. 15. Regulation of small wireless facilities.

9 (a) This Section applies to activities of a wireless
10 provider within or outside rights-of-way.

11 (b) Except as provided in this Section, an authority may
12 not prohibit, regulate, or charge for the collocation of small
13 wireless facilities.

14 (c) Small wireless facilities shall be classified as
15 permitted uses and subject to administrative review in
16 conformance with this Act, except as provided in paragraph (5)
17 of subsection (d) of this Section regarding height exceptions
18 or variances, but not subject to zoning review or approval if
19 they are collocated (i) in rights-of-way in any zone, or (ii)
20 outside rights-of-way in property zoned exclusively for
21 commercial or industrial use.

22 (d) An authority may require an applicant to obtain one or
23 more permits to collocate a small wireless facility. An

1 authority shall receive applications for, process, and issue
2 permits subject to the following requirements:

3 (1) An authority may not directly or indirectly
4 require an applicant to perform services unrelated to the
5 collocation for which approval is sought, such as in-kind
6 contributions to the authority, including reserving fiber,
7 conduit, or utility pole space for the authority on the
8 wireless provider's utility pole. An authority may reserve
9 space on authority utility poles for future public safety
10 uses or for the authority's electric utility uses, but a
11 reservation of space may not preclude the collocation of a
12 small wireless facility unless the authority reasonably
13 determines that the authority utility pole cannot
14 accommodate both uses.

15 (2) An applicant shall not be required to provide more
16 information to obtain a permit than the authority requires
17 of a communications service provider that is not a
18 wireless provider that requests to attach facilities to a
19 structure; however, a wireless provider may be required to
20 provide the following information when seeking a permit to
21 collocate small wireless facilities on a utility pole or
22 wireless support structure:

23 (A) site specific structural integrity and, for an
24 authority utility pole, make-ready analysis prepared
25 by a structural engineer, as that term is defined in
26 Section 4 of the Structural Engineering Practice Act

1 of 1989;

2 (B) the location where each proposed small
3 wireless facility or utility pole would be installed
4 and photographs of the location and its immediate
5 surroundings depicting the utility poles or structures
6 on which each proposed small wireless facility would
7 be mounted or location where utility poles or
8 structures would be installed;

9 (C) specifications and drawings prepared by a
10 structural engineer, as that term is defined in
11 Section 4 of the Structural Engineering Practice Act
12 of 1989, for each proposed small wireless facility
13 covered by the application as it is proposed to be
14 installed;

15 (D) the equipment type and model numbers for the
16 antennas and all other wireless equipment associated
17 with the small wireless facility;

18 (E) a proposed schedule for the installation and
19 completion of each small wireless facility covered by
20 the application, if approved; and

21 (F) certification that the collocation complies
22 with paragraph (6) to the best of the applicant's
23 knowledge.

24 (3) Subject to paragraph (6), an authority may not
25 require the placement of small wireless facilities on any
26 specific utility pole, or category of utility poles, or

1 require multiple antenna systems on a single utility pole;
2 however, with respect to an application for the
3 collocation of a small wireless facility associated with a
4 new utility pole, an authority may propose that the small
5 wireless facility be collocated on an existing utility
6 pole or existing wireless support structure within 100
7 feet of the proposed collocation, which the applicant
8 shall accept if it has the right to use the alternate
9 structure on reasonable terms and conditions and the
10 alternate location and structure does not impose technical
11 limits or additional material costs as determined by the
12 applicant. The authority may require the applicant to
13 provide a written certification describing the property
14 rights, technical limits or material cost reasons the
15 alternate location does not satisfy the criteria in this
16 paragraph (3).

17 (4) Subject to paragraph (6), an authority may not
18 limit the placement of small wireless facilities mounted
19 on a utility pole or a wireless support structure by
20 minimum horizontal separation distances.

21 (5) An authority may limit the maximum height of a
22 small wireless facility to 10 feet above the utility pole
23 or wireless support structure on which the small wireless
24 facility is collocated. Subject to any applicable waiver,
25 zoning, or other process that addresses wireless provider
26 requests for an exception or variance and does not

1 prohibit granting of such exceptions or variances, the
2 authority may limit the height of new or replacement
3 utility poles or wireless support structures on which
4 small wireless facilities are collocated to the higher of:
5 (i) 10 feet in height above the tallest existing utility
6 pole, other than a utility pole supporting only wireless
7 facilities, that is in place on the date the application
8 is submitted to the authority, that is located within 300
9 feet of the new or replacement utility pole or wireless
10 support structure and that is in the same right-of-way
11 within the jurisdictional boundary of the authority,
12 provided the authority may designate which intersecting
13 right-of-way within 300 feet of the proposed utility pole
14 or wireless support structures shall control the height
15 limitation for such facility; or (ii) 45 feet above ground
16 level.

17 (6) An authority may require that:

18 (A) the wireless provider's operation of the small
19 wireless facilities does not interfere with the
20 frequencies used by a public safety agency for public
21 safety communications; a wireless provider shall
22 install small wireless facilities of the type and
23 frequency that will not cause unacceptable
24 interference with a public safety agency's
25 communications equipment; unacceptable interference
26 will be determined by and measured in accordance with

1 industry standards and the FCC's regulations
2 addressing unacceptable interference to public safety
3 spectrum or any other spectrum licensed by a public
4 safety agency; if a small wireless facility causes
5 such interference, and the wireless provider has been
6 given written notice of the interference by the public
7 safety agency, the wireless provider, at its own
8 expense, shall take all reasonable steps necessary to
9 correct and eliminate the interference, including, but
10 not limited to, powering down the small wireless
11 facility and later powering up the small wireless
12 facility for intermittent testing, if necessary; the
13 authority may terminate a permit for a small wireless
14 facility based on such interference if the wireless
15 provider is not making a good faith effort to remedy
16 the problem in a manner consistent with the abatement
17 and resolution procedures for interference with public
18 safety spectrum established by the FCC including 47
19 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672
20 through 47 CFR 90.675;

21 (B) the wireless provider comply with requirements
22 that are imposed by a contract between an authority
23 and a private property owner that concern design or
24 construction standards applicable to utility poles and
25 ground-mounted equipment located in the right-of-way;

26 (C) the wireless provider comply with applicable

1 spacing requirements in applicable codes and
2 ordinances concerning the location of ground-mounted
3 equipment located in the right-of-way if the
4 requirements include a waiver, zoning, or other
5 process that addresses wireless provider requests for
6 exception or variance and do not prohibit granting of
7 such exceptions or variances;

8 (D) the wireless provider comply with local code
9 provisions or regulations concerning undergrounding
10 requirements that prohibit the installation of new or
11 the modification of existing utility poles in a
12 right-of-way without prior approval if the
13 requirements include a waiver, zoning, or other
14 process that addresses requests to install such new
15 utility poles or modify such existing utility poles
16 and do not prohibit the replacement of utility poles;

17 (E) the wireless provider comply with generally
18 applicable standards that are consistent with this Act
19 and adopted by an authority for construction and
20 public safety in the rights-of-way, including, but not
21 limited to, reasonable and nondiscriminatory wiring
22 and cabling requirements, grounding requirements,
23 utility pole extension requirements, and signage
24 limitations; and shall comply with reasonable and
25 nondiscriminatory requirements that are consistent
26 with this Act and adopted by an authority regulating

1 the location, size, surface area and height of small
2 wireless facilities, or the abandonment and removal of
3 small wireless facilities;

4 (F) the wireless provider not collocate small
5 wireless facilities on authority utility poles that
6 are part of an electric distribution or transmission
7 system within the communication worker safety zone of
8 the pole or the electric supply zone of the pole;
9 however, the antenna and support equipment of the
10 small wireless facility may be located in the
11 communications space on the authority utility pole and
12 on the top of the pole, if not otherwise unavailable,
13 if the wireless provider complies with applicable
14 codes for work involving the top of the pole; for
15 purposes of this subparagraph (F), the terms
16 "communications space", "communication worker safety
17 zone", and "electric supply zone" have the meanings
18 given to those terms in the National Electric Safety
19 Code as published by the Institute of Electrical and
20 Electronics Engineers;

21 (G) the wireless provider comply with the
22 applicable codes and local code provisions or
23 regulations that concern public safety;

24 (H) the wireless provider comply with written
25 design standards that are generally applicable for
26 decorative utility poles, or reasonable stealth,

1 concealment, and aesthetic requirements that are
2 identified by the authority in an ordinance, written
3 policy adopted by the governing board of the
4 authority, a comprehensive plan, or other written
5 design plan that applies to other occupiers of the
6 rights-of-way, including on a historic landmark or in
7 a historic district; and

8 (I) subject to subsection (c) of this Section, and
9 except for facilities excluded from evaluation for
10 effects on historic properties under 47 CFR
11 1.1307(a)(4), reasonable, technically feasible and
12 non-discriminatory design or concealment measures in a
13 historic district or historic landmark; any such
14 design or concealment measures, including restrictions
15 on a specific category of poles, may not have the
16 effect of prohibiting any provider's technology; such
17 design and concealment measures shall not be
18 considered a part of the small wireless facility for
19 purposes of the size restrictions of a small wireless
20 facility; this paragraph may not be construed to limit
21 an authority's enforcement of historic preservation in
22 conformance with the requirements adopted pursuant to
23 the Illinois State Agency Historic Resources
24 Preservation Act or the National Historic Preservation
25 Act of 1966, 54 U.S.C. Section 300101 et seq., and the
26 regulations adopted to implement those laws.

1 (7) Within 30 days after receiving an application, an
2 authority must determine whether the application is
3 complete and notify the applicant. If an application is
4 incomplete, an authority must specifically identify the
5 missing information. An application shall be deemed
6 complete if the authority fails to provide notification to
7 the applicant within 30 days after when all documents,
8 information, and fees specifically enumerated in the
9 authority's permit application form are submitted by the
10 applicant to the authority. Processing deadlines are
11 tolled from the time the authority sends the notice of
12 incompleteness to the time the applicant provides the
13 missing information.

14 (8) An authority shall process applications as
15 follows:

16 (A) an application to collocate a small wireless
17 facility on an existing utility pole or wireless
18 support structure shall be processed on a
19 nondiscriminatory basis and deemed approved if the
20 authority fails to approve or deny the application
21 within 90 days; however, if an applicant intends to
22 proceed with the permitted activity on a deemed
23 approved basis, the applicant must notify the
24 authority in writing of its intention to invoke the
25 deemed approved remedy no sooner than 75 days after
26 the submission of a completed application; the permit

1 shall be deemed approved on the latter of the 90th day
2 after submission of the complete application or the
3 10th day after the receipt of the deemed approved
4 notice by the authority; the receipt of the deemed
5 approved notice shall not preclude the authority's
6 denial of the permit request within the time limits as
7 provided under this Act; and

8 (B) an application to collocate a small wireless
9 facility that includes the installation of a new
10 utility pole shall be processed on a nondiscriminatory
11 basis and deemed approved if the authority fails to
12 approve or deny the application within 120 days;
13 however, if an applicant intends to proceed with the
14 permitted activity on a deemed approved basis, the
15 applicant must notify the authority in writing of its
16 intention to invoke the deemed approved remedy no
17 sooner than 105 days after the submission of a
18 completed application; the permit shall be deemed
19 approved on the latter of the 120th day after
20 submission of the complete application or the 10th day
21 after the receipt of the deemed approved notice by the
22 authority; the receipt of the deemed approved notice
23 shall not preclude the authority's denial of the
24 permit request within the time limits as provided
25 under this Act.

26 (9) An authority shall approve an application unless

1 the application does not meet the requirements of this
2 Act. If an authority determines that applicable codes,
3 local code provisions or regulations that concern public
4 safety, or the requirements of paragraph (6) require that
5 the utility pole or wireless support structure be replaced
6 before the requested collocation, approval may be
7 conditioned on the replacement of the utility pole or
8 wireless support structure at the cost of the provider.
9 The authority must document the basis for a denial,
10 including the specific code provisions or application
11 conditions on which the denial was based, and send the
12 documentation to the applicant on or before the day the
13 authority denies an application. The applicant may cure
14 the deficiencies identified by the authority and resubmit
15 the revised application once within 30 days after notice
16 of denial is sent to the applicant without paying an
17 additional application fee. The authority shall approve or
18 deny the revised application within 30 days after the
19 applicant resubmits the application or it is deemed
20 approved; however, the applicant must notify the authority
21 in writing of its intention to proceed with the permitted
22 activity on a deemed approved basis, which may be
23 submitted with the resubmitted application. Any subsequent
24 review shall be limited to the deficiencies cited in the
25 denial. However, this revised application cure does not
26 apply if the cure requires the review of a new location,

1 new or different structure to be collocated upon, new
2 antennas, or other wireless equipment associated with the
3 small wireless facility.

4 (10) The time period for applications may be further
5 tolled by:

6 (A) the express agreement in writing by both the
7 applicant and the authority; or

8 (B) a local, State, or federal disaster
9 declaration or similar emergency that causes the
10 delay.

11 (11) An applicant seeking to collocate small wireless
12 facilities within the jurisdiction of a single authority
13 shall be allowed, at the applicant's discretion, to file a
14 consolidated application and receive a single permit for
15 the collocation of up to 25 small wireless facilities if
16 the collocations each involve substantially the same type
17 of small wireless facility and substantially the same type
18 of structure. If an application includes multiple small
19 wireless facilities, the authority may remove small
20 wireless facility collocations from the application and
21 treat separately small wireless facility collocations for
22 which incomplete information has been provided or that do
23 not qualify for consolidated treatment or that are denied.
24 The authority may issue separate permits for each
25 collocation that is approved in a consolidated
26 application.

1 (12) Collocation for which a permit is granted shall
2 be completed within 180 days after issuance of the permit,
3 unless the authority and the wireless provider agree to
4 extend this period or a delay is caused by make-ready work
5 for an authority utility pole or by the lack of commercial
6 power or backhaul availability at the site, provided the
7 wireless provider has made a timely request within 60 days
8 after the issuance of the permit for commercial power or
9 backhaul services, and the additional time to complete
10 installation does not exceed 360 days after issuance of
11 the permit. Otherwise, the permit shall be void unless the
12 authority grants an extension in writing to the applicant.

13 (13) The duration of a permit shall be for a period of
14 not less than 5 years, and the permit shall be renewed for
15 equivalent durations unless the authority makes a finding
16 that the small wireless facilities or the new or modified
17 utility pole do not comply with the applicable codes or
18 local code provisions or regulations in paragraphs (6) and
19 (9). If this Act is repealed as provided in Section 90,
20 renewals of permits shall be subject to the applicable
21 authority code provisions or regulations in effect at the
22 time of renewal.

23 (14) An authority may not prohibit, either expressly
24 or de facto, the (i) filing, receiving, or processing
25 applications, or (ii) issuing of permits or other
26 approvals, if any, for the collocation of small wireless

1 facilities unless there has been a local, State, or
2 federal disaster declaration or similar emergency that
3 causes the delay.

4 (15) Applicants shall submit applications, supporting
5 information, and notices by personal delivery or as
6 otherwise required by the authority. An authority may
7 require that permits, supporting information, and notices
8 be submitted by personal delivery at the authority's
9 designated place of business, by regular mail postmarked
10 on the date due, or by any other commonly used means,
11 including electronic mail, as required by the authority.

12 (16) An authority may require an applicant or site
13 developer to provide probative evidence in the form of
14 hard data recorded during a drive test performed by an
15 independent radio-frequency engineer selected by the
16 authority to support gap-in-coverage claims to establish
17 (i) the existence of a real gap in the specific carrier's
18 wireless coverage, (ii) the location of the gap, and (iii)
19 the geographical boundaries of the gap.

20 (e) Application fees are subject to the following
21 requirements:

22 (1) An authority may charge an application fee of up
23 to \$650 for an application to collocate a single small
24 wireless facility on an existing utility pole or wireless
25 support structure and up to \$350 for each small wireless
26 facility addressed in an application to collocate more

1 than one small wireless facility on existing utility poles
2 or wireless support structures.

3 (2) An authority may charge an application fee of
4 \$1,000 for each small wireless facility addressed in an
5 application that includes the installation of a new
6 utility for such collocation.

7 (3) Notwithstanding any contrary provision of State
8 law or local ordinance, applications pursuant to this
9 Section must be accompanied by the required application
10 fee.

11 (4) Within 2 months after the effective date of this
12 Act, an authority shall make available application fees
13 consistent with this subsection, through ordinance, or in
14 a written schedule of permit fees adopted by the
15 authority.

16 (f) An authority shall not require an application,
17 approval, or permit, or require any fees or other charges,
18 from a communications service provider authorized to occupy
19 the rights-of-way, for: (i) routine maintenance; (ii) the
20 replacement of wireless facilities with wireless facilities
21 that are substantially similar, the same size, or smaller if
22 the wireless provider notifies the authority at least 10 days
23 prior to the planned replacement and includes equipment
24 specifications for the replacement of equipment consistent
25 with the requirements of subparagraph (D) of paragraph (2) of
26 subsection (d) of this Section; or (iii) the installation,

1 placement, maintenance, operation, or replacement of micro
2 wireless facilities that are suspended on cables that are
3 strung between existing utility poles in compliance with
4 applicable safety codes. However, an authority may require a
5 permit to work within rights-of-way for activities that affect
6 traffic patterns or require lane closures.

7 (g) Nothing in this Act authorizes a person to collocate
8 small wireless facilities on: (1) property owned by a private
9 party or property owned or controlled by a unit of local
10 government that is not located within rights-of-way, subject
11 to subsection (j) of this Section, or a privately owned
12 utility pole or wireless support structure without the consent
13 of the property owner; (2) property owned, leased, or
14 controlled by a park district, forest preserve district, or
15 conservation district for public park, recreation, or
16 conservation purposes without the consent of the affected
17 district, excluding the placement of facilities on
18 rights-of-way located in an affected district that are under
19 the jurisdiction and control of a different unit of local
20 government as provided by the Illinois Highway Code; or (3)
21 property owned by a rail carrier registered under Section
22 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or
23 any other public commuter rail service, or an electric utility
24 as defined in Section 16-102 of the Public Utilities Act,
25 without the consent of the rail carrier, public commuter rail
26 service, or electric utility. The provisions of this Act do

1 not apply to an electric or gas public utility or such
2 utility's wireless facilities if the facilities are being
3 used, developed, and maintained consistent with the provisions
4 of subsection (i) of Section 16-108.5 of the Public Utilities
5 Act.

6 For the purposes of this subsection, "public utility" has
7 the meaning given to that term in Section 3-105 of the Public
8 Utilities Act. Nothing in this Act shall be construed to
9 relieve any person from any requirement (1) to obtain a
10 franchise or a State-issued authorization to offer cable
11 service or video service or (2) to obtain any required
12 permission to install, place, maintain, or operate
13 communications facilities, other than small wireless
14 facilities subject to this Act.

15 (h) Agreements between authorities and wireless providers
16 that relate to the collocation of small wireless facilities in
17 the right-of-way, including the collocation of small wireless
18 facilities on authority utility poles, that are in effect on
19 the effective date of this Act remain in effect for all small
20 wireless facilities collocated on the authority's utility
21 poles pursuant to applications submitted to the authority
22 before the effective date of this Act, subject to applicable
23 termination provisions. Such agreements entered into after the
24 effective date of the Act shall comply with the Act.

25 (i) An authority shall allow the collocation of small
26 wireless facilities on authority utility poles subject to the

1 following:

2 (1) An authority may not enter into an exclusive
3 arrangement with any person for the right to attach small
4 wireless facilities to authority utility poles.

5 (2) The rates and fees for collocations on authority
6 utility poles shall be nondiscriminatory regardless of the
7 services provided by the collocating person.

8 (3) An authority may charge an annual recurring rate
9 to collocate a small wireless facility on an authority
10 utility pole located in a right-of-way that equals (i)
11 \$200 per year or (ii) the actual, direct, and reasonable
12 costs related to the wireless provider's use of space on
13 the authority utility pole. Rates for collocation on
14 authority utility poles located outside of a right-of-way
15 are not subject to these limitations. In any controversy
16 concerning the appropriateness of a cost-based rate for an
17 authority utility pole located within a right-of-way, the
18 authority shall have the burden of proving that the rate
19 does not exceed the actual, direct, and reasonable costs
20 for the applicant's proposed use of the authority utility
21 pole. Nothing in this paragraph (3) prohibits a wireless
22 provider and an authority from mutually agreeing to an
23 annual recurring rate of less than \$200 to collocate a
24 small wireless facility on an authority utility pole.

25 (4) Authorities or other persons owning or controlling
26 authority utility poles within the right-of-way shall

1 offer rates, fees, and other terms that comply with
2 subparagraphs (A) through (E) of this paragraph (4).
3 Within 2 months after the effective date of this Act, an
4 authority or a person owning or controlling authority
5 utility poles shall make available, through ordinance or
6 an authority utility pole attachment agreement, license or
7 other agreement that makes available to wireless
8 providers, the rates, fees, and terms for the collocation
9 of small wireless facilities on authority utility poles
10 that comply with this Act and with subparagraphs (A)
11 through (E) of this paragraph (4). In the absence of such
12 an ordinance or agreement that complies with this Act, and
13 until such a compliant ordinance or agreement is adopted,
14 wireless providers may collocate small wireless facilities
15 and install utility poles under the requirements of this
16 Act.

17 (A) The rates, fees, and terms must be
18 nondiscriminatory, competitively neutral, and
19 commercially reasonable, and may address, among other
20 requirements, the requirements in subparagraphs (A)
21 through (I) of paragraph (6) of subsection (d) of this
22 Section; subsections (e), (i), and (k) of this
23 Section; Section 30; and Section 35, and must comply
24 with this Act.

25 (B) For authority utility poles that support
26 aerial facilities used to provide communications

1 services or electric service, wireless providers shall
2 comply with the process for make-ready work under 47
3 U.S.C. 224 and its implementing regulations, and the
4 authority shall follow a substantially similar process
5 for make-ready work except to the extent that the
6 timing requirements are otherwise addressed in this
7 Act. The good-faith estimate of the person owning or
8 controlling the authority utility pole for any
9 make-ready work necessary to enable the pole to
10 support the requested collocation shall include
11 authority utility pole replacement, if necessary.

12 (C) For authority utility poles that do not
13 support aerial facilities used to provide
14 communications services or electric service, the
15 authority shall provide a good-faith estimate for any
16 make-ready work necessary to enable the authority
17 utility pole to support the requested collocation,
18 including pole replacement, if necessary, within 90
19 days after receipt of a complete application.
20 Make-ready work, including any authority utility pole
21 replacement, shall be completed within 60 days of
22 written acceptance of the good-faith estimate by the
23 applicant at the wireless provider's sole cost and
24 expense. Alternatively, if the authority determines
25 that applicable codes or public safety regulations
26 require the authority utility pole to be replaced to

1 support the requested collocation, the authority may
2 require the wireless provider to replace the authority
3 utility pole at the wireless provider's sole cost and
4 expense.

5 (D) The authority shall not require more
6 make-ready work than required to meet applicable codes
7 or industry standards. Make-ready work may include
8 work needed to accommodate additional public safety
9 communications needs that are identified in a
10 documented and approved plan for the deployment of
11 public safety equipment as specified in paragraph (1)
12 of subsection (d) of this Section and included in an
13 existing or preliminary authority or public service
14 agency budget for attachment within one year of the
15 application. Fees for make-ready work, including any
16 authority utility pole replacement, shall not exceed
17 actual costs or the amount charged to communications
18 service providers for similar work and shall not
19 include any consultants' fees or expenses for
20 authority utility poles that do not support aerial
21 facilities used to provide communications services or
22 electric service. Make-ready work, including any pole
23 replacement, shall be completed within 60 days of
24 written acceptance of the good-faith estimate by the
25 wireless provider, at its sole cost and expense.

26 (E) A wireless provider that has an existing

1 agreement with the authority on the effective date of
2 the Act may accept the rates, fees, and terms that an
3 authority makes available under this Act for the
4 collocation of small wireless facilities or the
5 installation of new utility poles for the collocation
6 of small wireless facilities that are the subject of
7 an application submitted 2 or more years after the
8 effective date of the Act as provided in this
9 paragraph (4) by notifying the authority that it opts
10 to accept such rates, fees, and terms. The existing
11 agreement remains in effect, subject to applicable
12 termination provisions, for the small wireless
13 facilities the wireless provider has collocated on the
14 authority's utility poles pursuant to applications
15 submitted to the authority before the wireless
16 provider provides such notice and exercises its option
17 under this subparagraph.

18 (j) An authority shall authorize the collocation of small
19 wireless facilities on utility poles owned or controlled by
20 the authority that are not located within rights-of-way to the
21 same extent the authority currently permits access to utility
22 poles for other commercial projects or uses. The collocations
23 shall be subject to reasonable and nondiscriminatory rates,
24 fees, and terms as provided in an agreement between the
25 authority and the wireless provider.

26 (k) Nothing in this Section precludes an authority from

1 adopting reasonable rules with respect to the removal of
2 abandoned small wireless facilities. A small wireless facility
3 that is not operated for a continuous period of 12 months shall
4 be considered abandoned and the owner of the facility must
5 remove the small wireless facility within 90 days after
6 receipt of written notice from the authority notifying the
7 owner of the abandonment. The notice shall be sent by
8 certified or registered mail, return receipt requested, by the
9 authority to the owner at the last known address of the owner.
10 If the small wireless facility is not removed within 90 days of
11 such notice, the authority may remove or cause the removal of
12 the such facility pursuant to the terms of its pole attachment
13 agreement for authority utility poles or through whatever
14 actions are provided for abatement of nuisances or by other
15 law for removal and cost recovery. An authority may require a
16 wireless provider to provide written notice to the authority
17 if it sells or transfers small wireless facilities subject to
18 this Act within the jurisdictional boundary of the authority.
19 Such notice shall include the name and contact information of
20 the new wireless provider.

21 (1) Nothing in this Section requires an authority to
22 install or maintain any specific utility pole or to continue
23 to install or maintain utility poles in any location if the
24 authority makes a non-discriminatory decision to eliminate
25 above-ground utility poles of a particular type generally,
26 such as electric utility poles, in all or a significant

1 portion of its geographic jurisdiction. For authority utility
2 poles with collocated small wireless facilities in place when
3 an authority makes a decision to eliminate above-ground
4 utility poles of a particular type generally, the authority
5 shall either (i) continue to maintain the authority utility
6 pole or install and maintain a reasonable alternative utility
7 pole or wireless support structure for the collocation of the
8 small wireless facility, or (ii) offer to sell the utility
9 pole to the wireless provider at a reasonable cost or allow the
10 wireless provider to install its own utility pole so it can
11 maintain service from that location.

12 (Source: P.A. 100-585, eff. 6-1-18.)