

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Assumption of PA PUC Jurisdiction
Over Pole Attachments from the Federal
Communications Commission (FCC)

Public Meeting of August 29, 2019
3002672-LAW
Docket No. L-2018-3002672

STATEMENT OF CHAIRMAN GLADYS BROWN DUTRIEUILLE

I support asserting Commission jurisdiction over pole attachment disputes when doing so is consistent with federal law. With today's action, this Commission gains the authority to resolve disputes about pole attachments, meaning that our utilities and telecommunication providers will not have to resolve their disputes at the Federal Communications Commission (FCC). I believe that our Commission can streamline the dispute resolution process. Having an accessible and efficient dispute resolution process in place is important because pole attachment disputes have long been considered a major barrier to broadband deployment.¹

Today's action also allows non-jurisdictional entities without a Pennsylvania certificate of public convenience to have disputes decided by the Commission. In the absence of a cost recovery mechanism to cover the Commission's administrative costs incurred during the dispute resolution process, other jurisdictional entities will likely pay more. The Public Utility Commission funds operations by assessing our regulated utilities or, in the case of non-regulated entities such as competitive service providers, charging fees to cover at least a portion of our administrative costs.²

The ensuing cost-shifting is also disturbing given that current federal rules allow a \$295 fee for pole attachment disputes. The Parties addressed this issue on the record, in fact, the Central Bradford Authority even proposed a larger \$500 fee.³ It is anomalous and inconsistent to not address costs in a final decision that claims to adopt all federal regulations on the one hand yet, on the other hand, does not consider the application fee already allowed by the FCC rules.

¹ See e.g., *In re: National Broadband Plan*, Docket No. 09-51 (March 16, 2010) and, more recently, *In re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84 (August 3, 2018); *In re: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79 (August 3, 2018).

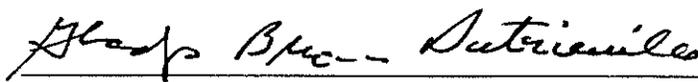
² 66 Pa. C.S. §§ 317 and 510(b).

³ See, Comments of BCAP at p. 4 (October 29, 2018) (stating that the Commission, if it does act, should adopt the FCC rules wholesale); and Comments of Central Bradford Progress Authority and Rural Net at p. 5 (October 29, 2019) (While the exact cost to the Commission is unknown, it would be appropriate to impose a modest fee upon complainants. For example, a flat filing fee (say, \$500.00), plus an additional fee for each implicated pole for which a pole attachment dispute exists (e.g. \$1.00 per pole), may be appropriate.).

I support mirroring the \$295 enforcement pole attachment fee currently in the FCC rules.⁴ Costs incurred by this Commission for providing the public good of a forum for dispute resolution should be paid by all participating entities. Because we are not certain how many entities will utilize our dispute resolution process or how complex the issues will be, setting the fee at the current federal level until we have better data would be a reasonable way to address concerns expressed in the comments. It would be more efficient to tackle the cost issue today instead of putting it off to a later date. It will have to be addressed at some point in the future since the Commission is constrained to fund its operations and must do so in an equitable manner.

For these reasons, I wish to be recorded as voting no on the failure to address a pole attachment fee but yes on the final regulation.

August 29, 2019
Date


Gladys Brown Dutrieuille, Chairman

⁴ 47 CFR § 1.1106 - Schedule of charges for a pole attachment complaint. The pole attachment complaint fee was increased from \$250 to \$295 by notice dated August 3, 2018 and effective September 4, 2018. See 83 FR 38049.