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AN ACT

RELATING TO TELECOMMUNICATIONS; ENACTING THE WIRELESS
CONSUMER ADVANCED INFRASTRUCTURE INVESTMENT ACT; ESTABLISHING
PROVISIONS FOR THE DEPLOYMENT OF CELLULAR NETWORK NODES IN
PUBLIC RIGHTS OF WAY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the
"Wireless Consumer Advanced Infrastructure Investment Act".

SECTION 2. DEFINITIONS.--As used in the Wireless
Consumer Advanced Infrastructure Investment Act:

A. "antenna" means communications equipment that
transmits or receives electromagnetic radio frequency signals
and that is used to provide wireless services;

B. "applicable codes" means uniform building,
fire, electrical, plumbing or mechanical codes adopted by a
recognized national code organization and enacted by the
authority, including the local amendments to those codes
enacted by the authority solely to address imminent threats
of destruction of property or injury to persons, to the
extent that those amendments are consistent with the Wireless
Consumer Advanced Infrastructure Investment Act;

C. "applicant" means a wireless provider that
submits an application;

D. "application" means a request submitted by an

1 applicant to an authority for a permit to collocate one or
2 more small wireless facilities or to approve the
3 installation, modification or replacement of a utility pole
4 or wireless support structure;

5 E. "authority" means a municipality or county;

6 F. "authority utility pole" means a utility pole,
7 owned or operated by an authority, in a right of way;

8 G. "collocate" means to install, mount, maintain,
9 modify, operate or replace one or more wireless facilities
10 on, in or adjacent to a wireless support structure or utility
11 pole;

12 H. "communications service" means cable service as
13 defined in 47 U.S.C. Section 522(6), information service as
14 defined in 47 U.S.C. Section 153(24), mobile service as
15 defined in 47 U.S.C. Section 153(33), telecommunications
16 service as defined in 47 U.S.C. Section 153(53) or wireless
17 service other than mobile service;

18 I. "fee" means a one-time charge;

19 J. "law" includes federal, state or local law;

20 K. "permit" means the written permission of an
21 authority for a wireless provider to install, mount,
22 maintain, modify, operate or replace a utility pole or to
23 collocate a small wireless facility on a utility pole or
24 wireless support structure;

25 L. "person":

1 (1) means an individual, corporation,
2 limited liability company, partnership, association, trust or
3 other entity or organization; and

4 (2) includes an authority;

5 M. "private easement" means an easement or other
6 real property right given for the benefit of the grantee of
7 the easement and the grantee's successors and assigns;

8 N. "rate" means a recurring charge;

9 O. "right of way":

10 (1) means the area on, below or above a
11 public roadway, highway, street, sidewalk, alley or utility
12 easement; and

13 (2) does not include the area on, below or
14 above:

15 (a) a federal interstate highway;

16 (b) a state highway or route under the
17 jurisdiction of the department of transportation;

18 (c) a private easement; or

19 (d) a utility easement that does not
20 authorize the deployment sought by a wireless provider;

21 P. "small wireless facility" means a wireless
22 facility whose:

23 (1) antennas are, or could fit, inside an
24 enclosure with a volume of six or fewer cubic feet; and

25 (2) other ground- or pole-mounted wireless

1 equipment, not including the following, is twenty-eight or
2 fewer cubic feet in volume:

- 3 (a) electric meter;
- 4 (b) concealment elements;
- 5 (c) telecommunications demarcation box;
- 6 (d) grounding equipment;
- 7 (e) power transfer switch;
- 8 (f) cutoff switch;
- 9 (g) vertical cable runs for the
10 connection of power and other services; and

11 (h) elements required by an authority
12 in accordance with Subsection H of Section 3 of the Wireless
13 Consumer Advanced Infrastructure Investment Act;

14 Q. "utility pole":

15 (1) means a pole or similar structure used
16 in whole or in part for communications services, electricity
17 distribution, lighting or traffic signals; and

18 (2) does not include a wireless support
19 structure or electric transmission structure;

20 R. "wireless facility":

21 (1) means equipment at a fixed location that
22 enables wireless communications between user equipment and a
23 communications network, including:

24 (a) equipment associated with wireless
25 communications; and

1 (b) radio transceivers, antennas,
2 coaxial or fiber-optic cables, regular and backup power
3 supplies and comparable equipment, regardless of
4 technological configuration;

5 (2) includes a small wireless facility; and

6 (3) does not include:

7 (a) the structure or improvements on,
8 under or within which the equipment is collocated;

9 (b) a wireline backhaul facility,
10 coaxial cable or fiber-optic cable between wireless support
11 structures or utility poles; or

12 (c) coaxial or fiber-optic cable
13 otherwise not immediately adjacent to, or directly associated
14 with, an antenna;

15 S. "wireless infrastructure provider" means a
16 person, other than a wireless services provider, that may
17 provide telecommunications service in New Mexico and that
18 builds or installs wireless communications transmission
19 equipment, wireless facilities' utility poles or wireless
20 support structures;

21 T. "wireless provider" means a wireless
22 infrastructure provider or wireless services provider;

23 U. "wireless services" means services provided to
24 the public that use licensed or unlicensed spectrum, either
25 mobile or at a fixed location, through wireless facilities;

1 V. "wireless services provider" means a person
2 that provides wireless services;

3 W. "wireless support structure" means a
4 freestanding structure, including a monopole or guyed or
5 self-supporting tower, but not including a utility pole; and

6 X. "wireline backhaul facility" means a facility
7 used to transport services by wire from a wireless facility
8 to a network.

9 SECTION 3. WIRELESS PROVIDER--USE OF RIGHT OF
10 WAY--RATES, FEES AND TERMS--RIGHT TO ACCESS--DAMAGE AND
11 REPAIR.--

12 A. This section applies to the activities of a
13 wireless provider within a right of way.

14 B. An authority shall not enter into an exclusive
15 agreement with a wireless provider for the use of a right of
16 way in:

17 (1) constructing, installing, maintaining,
18 modifying, operating or replacing a utility pole; or

19 (2) collocating a small wireless facility on
20 a utility pole or wireless support structure.

21 C. An authority may charge a wireless provider a
22 rate or fee for the provider's use of a right of way in
23 constructing, installing, maintaining, modifying, operating
24 or replacing a utility pole, or in collocating a small
25 wireless facility, in the right of way only if:

1 (1) the authority otherwise may, under law,
2 charge the rate or fee;

3 (2) the authority charges other
4 communications service providers for their use, if any, of
5 the right of way; and

6 (3) the rate or fee:

7 (a) is competitively neutral as
8 compared to other users, if any, of the right of way, unless
9 the other users are exempt under law from paying a rate or
10 fee for their use of the right of way;

11 (b) is not in the form of a franchise
12 or other fee based on revenue or customer counts;

13 (c) is reasonable and
14 nondiscriminatory; and

15 (d) annually, does not exceed an amount
16 equal to two hundred fifty dollars (\$250) multiplied by the
17 number of small wireless facilities placed by the wireless
18 provider in the right of way and in the authority's
19 jurisdiction.

20 D. An authority may adjust the rate it charges for
21 the use of a right of way, but no more often than once a year
22 and by no more than an amount equal to one-half the annual
23 change, if any, in the most recent consumer price index for
24 all urban consumers for New Mexico, as published by the
25 United States department of labor. An authority that adjusts

1 that rate shall notify all wireless providers charged the
2 pre-adjusted rate of the prospective adjustment and shall
3 make the adjustment effective sixty days or more following
4 that notice.

5 E. Except as otherwise provided in the Wireless
6 Consumer Advanced Infrastructure Investment Act, and subject
7 to the approval of an application as provided in Section 4 of
8 that act, a wireless provider may collocate small wireless
9 facilities and construct, install, modify, mount, maintain,
10 operate and replace utility poles associated with the
11 collocation of a small wireless facility along, across, on or
12 under the right of way.

13 F. If a wireless provider or the provider's
14 contractor causes damage to the authority's property or right
15 of way while the provider or contractor occupies, installs,
16 repairs or maintains a small wireless facility, wireless
17 support structure or utility pole in the right of way, the
18 authority may require the provider to return the property to
19 its pre-damage condition according to the authority's
20 requirements and specifications if the requirements and
21 specifications are competitively neutral and reasonable and
22 upon written notice of the requirement to the provider. If
23 the provider does not, within a reasonable period after
24 receiving the notice, repair the property as required by the
25 authority, the authority may make the repairs and charge the

1 provider the reasonable, documented cost of the repairs.

2 G. A wireless provider that deploys a utility pole
3 or small wireless facility in a right of way shall construct,
4 maintain and locate it so as not to obstruct or hinder the
5 usual travel on, or endanger the public in, the right of way,
6 damage or interfere with another utility facility in the
7 right of way or interfere with another utility's use of its
8 facility in the right of way. In constructing and
9 maintaining its utility pole or small wireless facility, the
10 wireless provider shall comply with the national electrical
11 safety code and all applicable laws for the protection of
12 underground and overhead utility facilities. An authority
13 shall treat a wireless provider's utility poles and small
14 wireless facilities in a right of way as it does the
15 facilities, if any, of other utilities in the right of way;
16 however, the authority may adopt reasonable regulations
17 concerning the separation of the wireless provider's utility
18 poles and small wireless facilities from other utility
19 facilities in the right of way to prevent damage to, or
20 interference with, the facilities or to prevent interference
21 with a utility's use of its facility or facilities in, or to
22 be placed in, the right of way.

23 H. Subject to Subsection E of Section 4 of the
24 Wireless Consumer Advanced Infrastructure Investment Act, an
25 authority may require, as they pertain to small wireless

1 facilities located in design districts or historic districts,
2 reasonable, technically feasible, non-discriminatory and
3 technologically neutral design or concealment measures and
4 reasonable measures for conforming to the design aesthetics
5 of design districts or historic districts, as long as the
6 measures do not have the effect of prohibiting a wireless
7 provider's technology. As used in this subsection:

8 (1) "design district" means an area zoned or
9 otherwise designated by municipal ordinance and for which a
10 municipality maintains and uniformly enforces unique design
11 and aesthetic standards; and

12 (2) "historic district" means a group of
13 buildings, properties or sites that fall within the category
14 defined in 47 C.F.R. 1.1307(a)(4) and are:

15 (a) listed in the national register of
16 historic places or formally determined eligible for listing
17 in that register by the keeper of the register in accordance
18 with the nationwide programmatic agreement found in 47 C.F.R.
19 Part 1, Appendix C; or

20 (b) designated as a historic district
21 in accordance with the Historic District and Landmark Act.

22 I. Without the authority's discretionary and
23 written consent, which the authority shall give in a
24 nondiscriminatory way, a wireless provider shall not install
25 a new utility pole in a right of way adjacent to a street or

1 thoroughfare that is:

2 (1) fifty feet wide or less; and

3 (2) adjacent to single-family residential
4 lots or other multifamily residences or to undeveloped land
5 designated for residential use by zoning or deed
6 restrictions.

7 J. A wireless provider that installs a new utility
8 pole or small wireless facility in a right of way as
9 described in Subsection H of this section shall comply with
10 applicable private deed restrictions and other private
11 restrictions affecting the area.

12 K. A wireless provider shall notify an authority
13 in writing of its intention to discontinue its use of a small
14 wireless facility or utility pole. The notice shall inform
15 the authority of the time and the way in which the wireless
16 provider intends to remove the small wireless facility or
17 utility pole. The wireless provider is responsible for the
18 costs of the removal. The authority may require the wireless
19 provider to return the property to its pre-installation
20 condition according to the authority's reasonable and
21 nondiscriminatory requirements and specifications. If the
22 wireless provider does not complete the removal within
23 forty-five days after the notice, the authority may complete
24 the removal and assess the costs of removal against the
25 wireless provider. The permit for the small wireless

1 facility or utility pole expires upon removal.

2 SECTION 4. COLLOCATION OF A SMALL WIRELESS
3 FACILITY--PERMITS--APPLICATION--FEE.--

4 A. This section applies to a wireless provider's
5 collocation activities within a right of way.

6 B. An authority may prohibit, regulate or charge
7 for the collocation of a small wireless facility only as
8 provided in this section and Sections 3, 6 and 7 of the
9 Wireless Consumer Advanced Infrastructure Investment Act.

10 C. A small wireless facility collocated on a
11 utility pole or wireless support structure that extends ten
12 or fewer feet above the pole or structure in a right of way
13 in any zone is classified as a permitted use and is not
14 subject to zoning review or approval.

15 D. An authority may require an applicant to obtain
16 one or more permits to collocate a small wireless facility in
17 a right of way if the requirement is of general applicability
18 to users of the right of way. An applicant seeking to
19 collocate, within an authority's jurisdiction, up to
20 twenty-five small wireless facilities, all of which are
21 substantially the same type, on substantially the same types
22 of structures may file a consolidated application for the
23 collocation of the facilities. An applicant shall not file
24 with an authority more than one consolidated application in
25 any five-business-day period. The applicant shall include in

1 a consolidated application an attestation that, unless a
2 delay in collocation is caused by the lack of commercial
3 power or fiber at the site, the collocation will begin within
4 one hundred eighty days after the permit issuance date. The
5 authority and the provider may subsequently agree to extend
6 that period.

7 E. An authority shall:

8 (1) without bias, accept and process
9 applications and issue permits to collocate small wireless
10 facilities;

11 (2) within thirty days after receiving an
12 application, determine and notify the applicant of whether
13 the application is complete and:

14 (a) for an incomplete application,
15 specifically identify the information missing from it; and

16 (b) deem the application complete if
17 the applicant is not notified within the thirty-day period;

18 (3) within ninety days after receiving a
19 completed application, approve or deny it and deem the
20 application approved if that approval or denial is not given
21 within the ninety-day period. The authority may request an
22 extension of the ninety-day period, and the authority and
23 applicant may agree to extend that period. An applicant
24 shall not unreasonably deny an authority's request to extend
25 the period;

1 (4) approve a completed application unless
2 the application does not conform with:

3 (a) applicable codes or local laws
4 concerning: 1) public safety; 2) design for utility poles,
5 but only to the extent that the standards the codes or laws
6 impose are objective; 3) stealth and concealment, but only to
7 the extent that the restrictions the codes or laws impose are
8 reasonable; and 4) the spacing of ground-mounted equipment in
9 a right of way; and

10 (b) requirements imposed by the
11 authority in accordance with Subsection H of Section 3 of the
12 Wireless Consumer Advanced Infrastructure Investment Act; and

13 (5) if it denies an application, document
14 the basis for the denial, including the specific code or law
15 on which the denial was based, and send that documentation to
16 the applicant on or before the date the application is
17 denied.

18 F. In the ninety-day period after an authority
19 receives an application to collocate a small wireless
20 facility, the authority may:

21 (1) provide public notice of the application
22 and an opportunity for written public comment on the
23 application; and

24 (2) submit the written public comment to the
25 applicant and request that the applicant respond to it.

1 G. If an authority determines that applicable
2 codes or laws require that a utility pole or wireless support
3 structure be replaced before an application for collocation
4 is approved, the authority may condition approval of the
5 application on that replacement. That replacement is subject
6 to Section 3 of the Wireless Consumer Advanced Infrastructure
7 Investment Act.

8 H. An applicant whose application is denied may
9 cure the deficiencies identified by the authority and submit
10 a revised application within thirty days after the denial for
11 no additional fee. The authority shall base its review of
12 the revised application only on the deficiencies cited in the
13 denial and shall approve or deny the revised application
14 within thirty days after receiving it.

15 I. If an application is for the collocation of
16 multiple small wireless facilities, the authority may:

17 (1) treat as separate those for which
18 incomplete information has been provided, that do not qualify
19 for consolidated treatment or that are denied; and

20 (2) issue separate permits for the
21 collocations that it approves.

22 J. An authority shall not:

23 (1) directly or indirectly require an
24 applicant to perform services unrelated to the collocation
25 for which approval is sought, such as the making of in-kind

1 contributions to the authority of reserving fiber, conduit or
2 pole space on the wireless provider's utility pole;

3 (2) require an applicant to provide more
4 information to obtain a permit than the authority requires of
5 a communications service provider that is not a wireless
6 provider and that requests a permit to attach facilities to a
7 structure; however, the authority may require the applicant
8 to certify that the small wireless facilities to be
9 collocated conform with the federal communications
10 commission's regulations concerning radio frequency
11 emissions;

12 (3) institute, either expressly or de facto,
13 a moratorium on the acceptance or processing of applications
14 or on the issuance of permits or other approvals, if any, for
15 the collocation of small wireless facilities; or

16 (4) except as otherwise provided in
17 Subsection K of this section, require an application,
18 approval or permit or impose a fee, rate or other charge for:

19 (a) the routine maintenance of a small
20 wireless facility;

21 (b) the replacement of a small wireless
22 facility with one that is substantially similar in size to,
23 the same size as or smaller than it, as long as the wireless
24 provider that owns the wireless facility notifies the
25 authority of the replacement at least ten days before the

1 replacement; or

2 (c) the installation, maintenance,
3 operation, placement or replacement of a micro wireless
4 facility that is, in accordance with applicable codes,
5 suspended on cables strung between utility poles or wireless
6 structures. As used in this subparagraph, "micro wireless
7 facility" means a small wireless facility less than
8 twenty-four inches long, fifteen inches wide and twelve
9 inches high whose exterior antenna, if any, is less than
10 eleven inches long.

11 K. An authority may require a permit to engage,
12 within rights of way, in activities that are identified in
13 Paragraph (4) of Subsection J of this section and that affect
14 traffic patterns or require lane closures.

15 L. The collocation for which a permit is issued
16 shall begin within one hundred eighty days after the permit
17 issuance date, unless the authority and the wireless provider
18 agree to extend that period or a delay in collocation is
19 caused by the lack of commercial power or fiber at the site.
20 The permit gives the wireless provider the right to:

21 (1) collocate the small wireless facility;
22 and

23 (2) subject to applicable relocation
24 requirements, the requirements imposed on the authority by
25 Section 3 of the Wireless Consumer Advanced Infrastructure

1 Investment Act and to the wireless provider's right to
2 terminate collocation at any time:

3 (a) operate and maintain the small
4 wireless facility for at least ten years; and

5 (b) renew the permit for the same
6 period, unless the authority finds that the small wireless
7 facility does not conform with the applicable codes and local
8 laws set forth in Paragraph (4) of Subsection E of this
9 section.

10 M. An authority may charge an applicant an
11 application fee in the amount of one hundred dollars (\$100)
12 or less for each of up to five small wireless facilities and
13 fifty dollars (\$50.00) or less for each additional small
14 wireless facility whose collocation is requested in a single
15 application.

16 N. The approval of an application under the
17 Wireless Consumer Advanced Infrastructure Investment Act does
18 not authorize the provision of a service or authorize the
19 installation, placement, maintenance or operation of a
20 wireline backhaul facility in a right of way.

21 O. The Wireless Consumer Advanced Infrastructure
22 Investment Act shall not be deemed to allow a person, without
23 the consent of the property owner, to collocate a small
24 wireless facility on a privately owned utility pole, a
25 privately owned wireless support structure or private

1 property.

2 SECTION 5. INSTALLATION, REPLACEMENT OR MODIFICATION OF
3 A UTILITY POLE--PERMITS--APPLICATION--FEE.--

4 A. This section applies to the activities of a
5 wireless provider in installing a new, replacement or
6 modified utility pole associated with the collocation of a
7 small wireless facility in a right of way.

8 B. A new, replacement or modified utility pole
9 associated with the collocation of a small wireless facility
10 and installed in a right of way is not subject to zoning
11 review and approval, except for that which pertains to the
12 under-grounding prohibitions described in Subparagraph (c) of
13 Paragraph (1) of Subsection C of this section, unless the
14 utility pole, as measured from the ground level, is higher
15 than whichever of the following is greater:

16 (1) ten feet plus the height in feet of the
17 tallest existing utility pole, other than a utility pole
18 supporting only one or more wireless facilities, that is:

19 (a) in place on the effective date of
20 the Wireless Consumer Advanced Infrastructure Investment Act;

21 (b) located within five hundred feet of
22 the new, replacement or modified utility pole;

23 (c) in the same right of way and within
24 the jurisdictional boundary of the authority; and

25 (d) fifty or fewer feet above ground

1 level; or

2 (2) fifty feet.

3 C. An authority may require an application for the
4 installation of a new, replacement or modified utility pole
5 associated with the collocation of a small wireless facility
6 in a right of way. An authority shall approve such an
7 application unless the authority finds that the installation
8 of the utility pole does not conform with:

9 (1) applicable codes or local laws
10 concerning:

11 (a) public safety;

12 (b) design for utility poles, but only
13 to the extent that the standards the codes or laws impose are
14 objective; and

15 (c) under-grounding prohibitions on the
16 installation of new, or the modification of existing, utility
17 poles in a right of way without prior approval, if those
18 regulations: 1) require that all cable and public utility
19 facilities be placed underground by a date certain within one
20 year after the application; 2) include a waiver, zoning or
21 other process that addresses requests to install such new
22 utility poles or modify such existing utility poles; and 3)
23 allow the replacement of utility poles;

24 (2) the federal Americans with Disabilities
25 Act of 1990 or similar federal or state standards for

1 pedestrian access or movement;

2 (3) requirements imposed by the authority in
3 accordance with Subsection H of Section 3 of the Wireless
4 Consumer Advanced Infrastructure Investment Act;

5 (4) requirements imposed by contract between
6 an authority and a private property owner concerning the
7 design of utility poles in the right of way; or

8 (5) the authority's laws concerning public
9 safety and imposing minimum spacing requirements, if
10 reasonable, for new utility poles in rights of way.

11 D. An authority shall process an application for a
12 permit to install a new, replacement or modified utility pole
13 associated with the collocation of a small wireless facility
14 within one hundred fifty days after receiving the
15 application. If the authority fails to approve or deny the
16 application within that period, the authority shall deem the
17 application approved. The application fee, if any, imposed
18 by the authority for such an application shall conform with
19 the requirements of Subsection M of Section 4 of the Wireless
20 Consumer Advanced Infrastructure Investment Act and shall not
21 exceed seven hundred fifty dollars (\$750).

22 E. The installation, modification or replacement
23 for which a permit is issued under this section shall begin
24 within one hundred eighty days after the permit issuance
25 date, unless the authority and wireless provider agree to

1 extend that period or a delay in the installation,
2 modification or replacement is caused by the lack of
3 commercial power or fiber at the site. The permit gives the
4 wireless provider the right to:

5 (1) undertake the requested deployment; and
6 (2) subject to applicable relocation
7 requirements, to the requirements imposed on the authority by
8 this section and to the provider's right to terminate the
9 installation at any time:

10 (a) operate and maintain the new,
11 modified or replacement utility pole for a period of at least
12 ten years; and

13 (b) renew the permit for that same
14 period, unless the authority finds that the new or modified
15 utility pole does not conform with the restrictions set forth
16 in Subsection C of this section.

17 SECTION 6. ACCESS TO AUTHORITY UTILITY POLES--RATES AND
18 FEES--COLLOCATIONS FOR OTHER COMMERCIAL PROJECTS OR USES.--

19 A. An authority shall not enter into an exclusive
20 agreement with a person for the right to attach a small
21 wireless facility to an authority utility pole.

22 B. The rates and fees an authority imposes for the
23 collocation of a small wireless facility on an authority
24 utility pole shall not vary according to the services
25 provided by the collocating person.

1 C. The rate to collocate a small wireless facility
2 on an authority utility pole shall not exceed twenty dollars
3 (\$20.00) per utility pole per year.

4 D. An authority shall process an application for a
5 permit to collocate a small wireless facility on an authority
6 utility pole in accordance with Section 4 of the Wireless
7 Consumer Advanced Infrastructure Investment Act. The
8 authority may condition the issuance of the permit on the
9 wireless provider's replacement of the authority utility pole
10 if the authority determines that applicable codes or local
11 laws concerning public safety require that replacement. The
12 authority shall process an application for a permit to
13 install a replacement authority utility pole in accordance
14 with Section 5 of the Wireless Consumer Advanced
15 Infrastructure Investment Act. The authority shall retain
16 ownership of the replacement utility pole.

17 E. An authority may prohibit, regulate and charge
18 for the collocation of a small wireless facility on a
19 wireless support structure owned by the authority.

20 SECTION 7. ESTABLISHMENT OF RATES, FEES AND
21 TERMS--EXTENSION OF TERM TO FULFILL DUTIES.--

22 A. An authority may adopt an ordinance setting
23 forth the rates, fees and terms for implementing the Wireless
24 Consumer Advanced Infrastructure Investment Act. In the
25 absence of such an ordinance, an authority and a wireless

1 provider may enter into an agreement setting forth those
2 rates, fees and terms. Documents showing the rates, fees and
3 terms agreed to by an authority and a wireless provider are
4 public records.

5 B. The rates, fees and terms for a wireless
6 provider's use of a right of way as set forth in Section 3 of
7 the Wireless Consumer Advanced Infrastructure Investment Act
8 and for access to authority utility poles as set forth in
9 Section 6 of that act shall accord with that act, and the
10 terms:

11 (1) shall be reasonable and
12 nondiscriminatory;

13 (2) may include requirements that the
14 authority has previously applied to other users of the right
15 of way;

16 (3) may require that the wireless provider's
17 operation of a small wireless facility in the right of way
18 not interfere with the authority's public safety
19 communications;

20 (4) except as otherwise provided in
21 Subsection C of Section 5 of that act, shall not:

22 (a) require the placement of a small
23 wireless facility on a specific utility pole or category of
24 poles or require multiple antenna systems on a single utility
25 pole; or

1 (b) restrict the placement of small
2 wireless facilities by imposing minimum horizontal spacing
3 requirements; and

4 (5) subject to Section 9 of that act, shall
5 provide for the reasonable accommodation of a power supply
6 to, and electric metering of, the small wireless facility.

7 C. An agreement between an authority and a
8 wireless provider in effect on the effective date of the
9 Wireless Consumer Advanced Infrastructure Investment Act and
10 that concerns the collocation of one or more small wireless
11 facilities in a right of way, including that collocation on
12 authority utility poles, remains in effect subject to
13 applicable termination provisions. A wireless provider in
14 such an agreement may, after they become effective, accept
15 the rates, fees and terms established in accordance with
16 Subsection B of this section for the small wireless
17 facilities and utility poles that are the subject of an
18 application.

19 D. If the federal government, the state or an
20 authority declares a disaster and that disaster impedes an
21 authority's or wireless provider's ability to fulfill the
22 duties imposed on it by the Wireless Consumer Advanced
23 Infrastructure Investment Act or by an ordinance adopted in
24 accordance with this section, the term under which those
25 duties must be fulfilled is extended for a reasonable period.

1 SECTION 8. SCOPE OF LOCAL AUTHORITY.--

2 A. Except as otherwise provided in the Wireless
3 Consumer Advanced Infrastructure Investment Act, an authority
4 may exercise its zoning, land use, planning and permitting
5 authority and its police power for the installation,
6 modification and replacement of wireless support structures
7 and utility poles.

8 B. An authority's power to control the design,
9 engineering, construction, installation or operation of a
10 small wireless facility in an interior structure or on the
11 site of a campus, stadium or athletic facility not owned or
12 controlled by the authority is limited to its authority to
13 enforce compliance with applicable codes.

14 C. The Wireless Consumer Advanced Infrastructure
15 Investment Act does not authorize the state or a political
16 subdivision of the state to require small wireless facility
17 deployment or to regulate wireless services.

18 D. If an authority determines that a utility pole
19 or the wireless support structure of a wireless provider must
20 be relocated to accommodate a public project, the provider
21 shall assume the costs of relocating the wireless facilities
22 deployed on the pole or structure.

23 SECTION 9. APPLICABILITY.--The Wireless Consumer
24 Advanced Infrastructure Investment Act does not:

25 A. affect the authority, under state or federal

1 law, of an investor-owned electric utility or electric
2 cooperative that owns, controls or operates utility poles or
3 wireless support structures to deny, limit, restrict or
4 determine the rates, fees, terms and conditions for the use
5 of, or attachment to, those poles or structures by a wireless
6 provider;

7 B. confer on an authority any zoning, land use,
8 planning, permitting or other regulatory authority over the
9 utility poles, wireless support structures or small wireless
10 facilities owned, controlled or operated by an investor-owned
11 electric utility or electric cooperative or the installation
12 of those poles, structures or facilities by an investor-owned
13 electric utility or electric cooperative;

14 C. impose a duty, liability or restriction on any
15 investor-owned electric utility or electric cooperative;

16 D. amend, modify or otherwise affect the
17 provisions affecting a private easement; or

18 E. authorize an authority to:

19 (1) require of a public telecommunications
20 company that provides telecommunications services under a
21 certificate of public convenience and necessity issued by the
22 state an additional grant of authority to provide those
23 services; or

24 (2) discriminate against such a company in
25 its use of rights of way.

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SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is September 1, 2018. _____