

**Before the
Consumer Protection, Technology, and Utilities Committee
Pennsylvania House of Representatives**

**Hearing on House Bill 1619
Legislation to Establish Standards re Double Utility Poles**

**Testimony of
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Good afternoon Chairman Matzie, Republican Chairman Marshall and members of the House Consumer Protection, Technology & Utilities Committee. I am Terry Fitzpatrick, President and CEO of the Energy Association of Pennsylvania (“EAP” or “Association”), a trade association comprised of electric and natural gas utilities—also known as electric and natural gas distribution companies—operating in Pennsylvania. EAP advocates for its members before the General Assembly and state agencies, assists its members by facilitating sharing of information and best practices, and provides educational opportunities for employees of its members and others through its operations and consumer services conferences. Thank you for this opportunity to provide testimony on behalf of our electric utility members regarding House Bill 1619, which would require the Public Utility Commission to promulgate regulations establishing standards regarding use of double utility poles.

The term “double pole” refers to situations where a replacement pole is inserted beside a pole to be replaced and the original pole remains in place for some period until the process of migrating all the facilities from the original pole to the replacement pole is completed. The insertion of replacement poles may become necessary due to damage to the original pole, the age of the pole, or to facilitate highway and infrastructure projects.

Utility poles are owned chiefly by electric utilities and telecommunications carriers. Pole owners are required by federal law to share space on their poles with other authorized users. So, for example, where an electric utility owns a pole it must allow telecommunications carriers,

cable companies, municipalities, and others to attach to the pole. These attachments are subject to pole attachment agreements spelling out compensation to the pole owner for use of the pole and the obligations of the parties regarding issues such as moving facilities when the pole must be replaced.

When a pole must be replaced, the entities with attachments on the pole are usually responsible for moving their own facilities. The sequence is to start at the top of the pole to move electric wires and then move the telecommunications, cable, and other wires which are attached lower on the pole. When an attaching party receives notice to migrate its facilities but does not complete this process at the appropriate time, this can have a ripple effect on the movement of other facilities and delay the migration of all attachments to the new pole.

House Bill 1619 contains a number of policies that will minimize the proliferation of double poles by encouraging the timely movement of facilities when an existing pole must be replaced. The Bill would require the PUC to promulgate regulations that would at a minimum consider:

- The duration, place and manner of acceptable use of double utility poles.
- Requirements that third-party attachers register with the PUC annually and provide a responsible point of contact and legal service agent for each utility service area in which the attacher has facilities.
- Procedures for pole owners to provide reasonable notice to attachers of the requirement to migrate facilities to a replacement pole.
- Establishing presumptively reasonable periods for attachers to migrate facilities to a replacement pole.
- Provisions for pole owners to be compensated for their costs of migrating an attacher's facilities and enforcement procedures when the attacher does not migrate its facilities

within the presumptively reasonable period, and in response to an order by a governing authority (these rights are in addition to any contractual rights of the pole owner).

- Establishing procedures for pole owners to determine that facilities have been abandoned and compensation for the pole owner's costs to remove such facilities out of necessity or in response to the order of a governing authority.
- Adoption of a rule authorizing pole owners to require a surety bond from attachers to reimburse pole owners for costs to migrate an attacher's facilities, remove abandoned facilities, or rectify a pre-existing violation caused by the attacher to accommodate a new attachment.
- Provisions to encourage expeditious removal of double poles following removal of all attached infrastructure.

We believe that this legislation would help to ease the proliferation of double poles in the Commonwealth. The rapid development of communications technologies in the past few decades has provided many benefits to society. It has also increased the number and variety of entities seeking to attach to utility poles, which complicates the coordination required to migrate attached facilities when a pole must be replaced. The rights and responsibilities of pole owners and attachers are addressed in pole attachment agreements between the parties. This legislation would add a level of regulatory oversight to these contractual provisions in order to promote more timely migration of facilities to replacement poles and to ease the proliferation of double poles.

The standards in the legislation are balanced and apply to both pole owners and attachers. Requiring attachers to register with the PUC annually and maintain points of contact for each utility service area will assist pole owners in communicating with attachers regarding the need to migrate facilities. Pole owners would be required to provide reasonable notice to attachers of the need to migrate facilities. Likewise, attachers would be

provided a presumptively reasonable period to migrate their facilities after receiving notice from pole owners. Where attachers do not migrate facilities in a timely manner, the standards in the legislation would support pole owner efforts to migrate the third-party facilities and recover the costs from the attacher so that these costs do not ultimately fall upon electric ratepayers. The legislation would also assist pole owners in identifying and removing abandoned facilities, in removing abandoned poles, and in allowing pole owners to require filing of bonds to ensure that funds are available to complete the migration of facilities when efforts to have the attacher move its facilities fail.

Electric utilities appreciate the opportunity to comment on this legislation which is designed to minimize the proliferation of double poles. We look forward to working with the General Assembly and with other stakeholders to advance this important legislation.

I'll be happy to respond to your questions.