

**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
Terrance J. Fitzpatrick, President and CEO
Energy Association of Pennsylvania**

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.

**Testimony of
Michael Simmonds, Assistant Business Manager
International Brotherhood of Electrical Workers
Philadelphia Local 126**

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

1:00 p.m.

Room G50

August 21, 2023

Chairman Matzie, Chairman Marshall, and Members of the House Consumer Protection, Technology and Utilities Subcommittee, on behalf of Philadelphia Local 126 Business Manager Richard Muttik and 6,000 IBEW members across the state working for utility contractors, investor-owned, municipal utilities and telecommunications and cable companies. My name is Michael Simmonds and I am assistant business manager of IBEW Local 126. For the record, I have submitted this testimony with some additional background information about the IBEW and its membership.

Thank you for inviting me to share the IBEW perspective on proposed legislation that would direct the Public Utilities Commission to establish rules governing the timely removal of excess utility poles. This hearing's topic is vital to the safety of anyone working around utility poles as well as the public at large.

Background

Local 126's jurisdiction includes the southern half of Pennsylvania. We represent contractors performing line work for electrical utilities like PPL, Metropolitan Edison, Duquesne Light and PECO, among others, as well as telecommunications companies like Verizon and cable and internet providers like Comcast and Crown Castle.

The state's existing electric distribution and telecommunications infrastructure delivers power and communications to consumers along thousands of miles of lines. The anticipated broadband buildout will add significantly to this hardware network.

IBEW members are employed in every aspect of the physical infrastructure in the utility and telecommunications industries, including working as line and ground workers, technicians, equipment operators, mechanics as well as substation linemen and communication technicians.

Delivering electric power and communications services can be hazardous work. Our members know the system and the risks, better than anyone. Our members are also the best skilled and best trained to do this inherently dangerous work.

The IBEW's interest in the policies governing the poles attached to the energy and telecommunications infrastructure are as practical as it gets, as IBEW members are literally on the front lines of its installation, maintenance and development.

Poles are fundamental to the distribution network, and these days, Local 126 members are setting 100 poles or more per day. For each pole set, we transfer the energized facility to the new pole, rendering the old pole useless for that service, be it power or telecommunications cables or wiring. However, we don't touch other services that may be attached to the old pole, as that is outside the scope of the work we are contracted to perform. These could include traffic signals or

municipal infrastructure or other fiber facilities. No other entity is responsible for consolidating the various attachments, or removing the old poles.

Protecting the health and safety of the line workforce is a founding principle of the IBEW – and a priority that hasn't wavered in more than 130 years. Damaged, abandoned poles that are no longer in active service pose a direct safety threat to utility workers and the public. Although life expectancy of poles varies according to material type and preservatives applied, utility poles typically last 30-40 years. Poles must be periodically replaced due to diminished structural integrity, old age or nearby construction work.

In the state of Pennsylvania, as far as I am aware, there are no metrics that illustrate the scale of this problem. Based on my experience as an outside lineman and that of other IBEW members, I estimate there are tens of thousands of redundant poles, characterized in the draft legislation as “double poles.” Currently in Pennsylvania, there is no law mandating the removal of poles no longer in use that are eyesores at a minimum – or potentially dangerous obstacles at worst.

Left in place, these old poles can fall or collapse, potentially causing harm to individuals or damage to property. Failing responsible, timely removal of damaged or unused poles, state laws need to exist to deter this practice.

It will also be helpful to resolve this issue before the looming buildout of the broadband network under the federal Bipartisan Infrastructure Law, as it will require additional telecommunications hardware installation.

Pennsylvania has received \$1.16 billion through the Broadband Equity, Access, and Deployment Program (BEAD) to help provide access to high-speed internet across the state. This work is scheduled to begin the second half of next year. Additionally, the Commonwealth was allocated nearly \$280 million from the American Rescue Plan Act Capital Projects Fund for broadband deployment. Work

related to that tranche is expected to begin early in 2024. The IBEW welcomes the opportunity for the new jobs this buildout provides.

Please note that as this line work accelerates, the importance of the highly skilled, trained power line professionals of the IBEW to erect and replace poles and transfer primary and secondary power, cable or fiber. I don't think it's hard to imagine the scale of disaster possible with the use of un- or undertrained technicians handling energized lines. This could result in loss of electric or telecommunications service, with property loss and injury or death distinct possibilities.

In closing, the IBEW respectfully requests that the state Legislature act to require the Pennsylvania Utility Commission to commence a rulemaking to provide support for the coordination and compensation for pole attachment relocation and establish procedures for compensation, indemnification and expeditious removal of an abandoned pole attachment. This work should only be accomplished by highly qualified IBEW line workers, due to these tasks' frequent contact with live distribution wires or cables.

Once again, I thank the Subcommittee for its interest in this subject, and will be happy to answer any questions.

Thank you.