

SENATE BILL No. 225

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-32.3.

Synopsis: Permits for wireless communications facilities. Amends the statute concerning the issuance of permits by local permit authorities to communications service providers for the construction and installation of wireless facilities and wireless support structures (including small cell facilities) as follows: (1) Allows a neighborhood association, a homeowners association, or an individual resident of the area over which a permit authority has jurisdiction to register with the permit authority to receive mailed notice of any permit application filed with the permit authority. (Current law allows only neighborhood associations and homeowners associations to register to receive notice, and only with respect to applications for new utility poles or new wireless support structures used to support small cell facilities.) (2) Provides that upon receiving a permit application after June 30, 2021, a permit authority shall provide notice of the application on: (A) the permit authority's Internet web site; or (B) if the permit authority does not maintain an Internet web site, the Internet web site of each affected local unit with respect to which the permit authority has jurisdiction. (3) Specifies that a local unit or permit authority is not prohibited from adopting any ordinance or regulation that requires or regulates the placement of signs, markers, or other notices: (A) on or near any wireless support structures or wireless facilities; and (B) that include information, notice, or warnings concerning radio frequency fields or radiation associated with wireless facilities. (4) Subject to protections for certain information, requires: (A) permit authorities to submit information to the Indiana utility regulatory commission (IURC) concerning: (i) the location of each wireless facility or wireless support
(Continued next page)

Effective: Upon passage; July 1, 2021.

Ford J.D.

January 7, 2021, read first time and referred to Committee on Utilities.



structure for which a permit has been approved; and (ii) the communications service provider for which the permit was approved; and (B) the IURC to publish on the IURC's Internet web site the information submitted. (5) With respect to an application for a permit to construct a new wireless support structure: (A) removes language allowing an applicant's decision not to collocate wireless facilities on an existing wireless support structure to be based on evidence that collocation would be an economic burden to the applicant; and (B) requires that certain other evidence that may serve as the basis for an applicant's decision against collocation be certified by a professional engineer. (6) Provides that with respect to an application for the placement of a small cell facility and the associated supporting structure at a location where a supporting structure does not exist, a permit authority may propose, as an alternative location, that the small cell facility be collocated on an existing utility pole or wireless support structure if the existing utility pole or wireless support structure is located within 100 feet (versus 50 feet under current law) of the applicant's proposed location. (7) Requires the applicant to use the permit authority's alternative location if that location will not result in technical limitations or significant additional costs, as certified by a professional engineer whose selection is agreed to by both parties. (Current law allows the applicant, rather than requires an independent professional engineer, to determine whether the permit authority's proposed alternative location will result in technical limitations or additional costs.) (8) With respect to an application concerning a small cell facility and an associated supporting structure, removes a provision that prohibits a permit authority from conditioning approval of the application on the applicant's agreement to allow other wireless facilities to be placed at, attached to, or located on the associated support structure. (9) Specifies that the statute does not prohibit a local unit or a permit authority from offering or approving tax incentives or other incentives for communications service providers that offer or agree to collocate a proposed wireless facility on an existing structure. (10) Urges the legislative council to assign to the interim study committee on energy, utilities, and telecommunications the task of studying the impact on human health of radiation or radio frequency fields associated with wireless communications facilities.



Introduced

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 225

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-32.3-15, AS AMENDED BY P.L.23-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 15. (a) This chapter applies to permits issued by
4 a permit authority to a communications service provider, under local
5 law and consistent with IC 36-7, for the following:
6 (1) Construction of a new wireless support structure.
7 (2) Substantial modification of a wireless support structure.
8 (3) Collocation of wireless facilities on an existing structure.
9 (4) Construction, placement, and use of small cell facilities.
10 (b) A permit authority may not require an application or a permit
11 for, or charge fees for, any of the following:
12 (1) The routine maintenance of wireless facilities.
13 (2) The replacement of wireless facilities with wireless facilities
14 that are:
15 (A) substantially similar to; or



- 1 (B) the same size or smaller than;
 2 the wireless facilities being replaced.
- 3 (3) The installation, placement, maintenance, or replacement of
 4 micro wireless facilities that are suspended on cables strung
 5 between existing utility poles in compliance with applicable codes
 6 by a communications service provider that is authorized to use the
 7 public rights-of-way. For purposes of this subdivision, "applicable
 8 codes" means uniform building, fire, electrical, plumbing, or
 9 mechanical codes that are:
- 10 (A) adopted by a recognized national code organization; and
 11 (B) enacted solely to address imminent threats of destruction
 12 of property or injury to persons;
 13 including any local amendments to those codes.
- 14 (c) With respect to the construction, placement, or use of a small
 15 cell facility and the associated supporting structure, a permit authority
 16 may prohibit the placement of a new utility pole or a new wireless
 17 support structure in a right-of-way within an area that is designated
 18 strictly for underground or buried utilities, if all of the following apply:
- 19 (1) The area is designated strictly for underground or buried
 20 utilities before May 1, 2017.
- 21 (2) The permit authority does all of the following:
- 22 (A) Allows the collocation of small cell facilities on existing:
 23 (i) utility poles; and
 24 (ii) wireless support structures;
 25 within the area.
- 26 (B) Allows the replacement or improvement of existing:
 27 (i) utility poles; and
 28 (ii) wireless support structures;
 29 within the area.
- 30 (C) Provides:
 31 (i) a waiver;
 32 (ii) a zoning process; or
 33 (iii) another procedure;
 34 that addresses requests to install new utility poles or new
 35 wireless support structures within the area.
- 36 (D) Upon receipt of an application for the construction,
 37 placement, or use of a small cell facility on one (1) or more
 38 new utility poles or one (1) or more new wireless support
 39 structures in an area that is designated strictly for underground
 40 or buried utilities, posts notice of the application on the permit
 41 authority's Internet web site, if the permit authority maintains
 42 an Internet web site. The notice of the application required by



1 this clause must include a statement indicating that the
2 application is available to the public upon request.

3 (3) The prohibition or other restrictions with respect to the
4 placement of new utility poles or new wireless support structures
5 within the area are applied in a nondiscriminatory manner.

6 (4) The area is zoned strictly for residential land use before May
7 1, 2017.

8 (d) A permit authority shall allow a neighborhood association, ~~or a~~
9 homeowners association, **or an individual resident of the area over**
10 **which the permit authority has jurisdiction** to register with the
11 permit authority to receive notice by United States mail of any
12 application filed with the permit authority ~~for the construction,~~
13 ~~placement, or use of a small cell facility on one (1) or more new utility~~
14 ~~poles or one (1) or more new wireless support structures in an area~~
15 ~~within the jurisdiction of the neighborhood association or homeowners~~
16 ~~association.~~ **under this chapter.** If the permit authority maintains an
17 Internet web site, the permit authority shall post on the permit
18 authority's Internet web site instructions for how a neighborhood
19 association, ~~or a~~ homeowners association, **or an individual resident**
20 may register to receive notice under this subsection. **The permit**
21 **authority may include the costs of providing notice under this**
22 **subsection in an application fee imposed under section 16 of this**
23 **chapter as actual, direct, and reasonable costs incurred for the**
24 **review, processing, and approval of the application, as described**
25 **in section 16(b) of this chapter.**

26 (e) Subject to section 26(b) of this chapter, with respect to the
27 construction, placement, or use of a small cell facility and the
28 associated supporting structure within an area:

29 (1) designated as a historic preservation district under IC 36-7-11;

30 (2) designated as a historic preservation area under IC 36-7-11.1;

31 or

32 (3) that is subject to the jurisdiction of the Meridian Street
33 preservation commission under IC 36-7-11.2;

34 a permit authority may apply any generally applicable procedures that
35 require applicants to obtain a certificate of appropriateness.

36 (f) An applicant for the placement of a small cell facility and an
37 associated supporting structure shall comply with:

38 (1) applicable:

39 (+) (A) Federal Communications Commission requirements;
40 and

41 (2) (B) industry standards;

42 for identifying the owner's name and contact information; **and**



1 **(2) any applicable ordinance or regulation adopted by a**
 2 **permit authority or a local unit under subsection (i).**

3 (g) A resolution, ordinance, or other regulation:

4 (1) adopted by a permit authority after April 14, 2017, and before
 5 May 2, 2017; and

6 (2) that designates an area within the jurisdiction of the permit
 7 authority as strictly for underground or buried utilities;

8 applies only to communications service providers and those geographic
 9 areas that are zoned residential and where all existing utility
 10 infrastructure is already buried.

11 **(h) Upon receipt of an application under this chapter after June**
 12 **30, 2021, a permit authority shall post, or cause to be posted, notice**
 13 **of the application on:**

14 (1) the permit authority's Internet web site, if the permit
 15 authority maintains an Internet web site; or

16 (2) if the permit authority does not maintain an Internet web
 17 site, the Internet web site of each local unit:

18 (A) identified in the application for an activity described in
 19 subsection (a); and

20 (B) with respect to which the permit authority has
 21 jurisdiction;

22 **if that local unit maintains an Internet web site.**

23 **The notice of the application required by this subsection must**
 24 **include a statement indicating that the application is available to**
 25 **the public upon request.**

26 **(i) This chapter does not prohibit a local unit or a permit**
 27 **authority from adopting or enforcing any reasonable and generally**
 28 **applicable ordinance or regulation that:**

29 (1) is intended to ensure public health, safety, and welfare;

30 (2) is subject to and consistent with the rights and authority
 31 under section 27 of this chapter (or under any other
 32 applicable laws, rules, or regulations) of a person (including
 33 a public utility) that owns, controls, or operates:

34 (A) a privately owned utility pole;

35 (B) a privately owned wireless support structure; or

36 (C) private property;

37 **with respect to the utility pole, wireless support structure, or**
 38 **other property;**

39 (3) is consistent with federal law, including any applicable
 40 decisions of, or rules promulgated by, the Federal
 41 Communications Commission; and

42 (4) requires or regulates the placement of signs, markers, or



1 **other notices:**

2 **(A) on or near any:**

3 **(i) small cell installation, small cell network, or other**
4 **wireless facility installation;**

5 **(ii) wireless support structure or utility pole used to**
6 **support one (1) more wireless facilities; or**

7 **(iii) equipment compound; and**

8 **(B) that include information, notice, or warnings**
9 **concerning radio frequency fields or radiation associated**
10 **with wireless facilities, consistent with accepted scientific**
11 **research or information.**

12 **Subject to subdivisions (2) and (3), an ordinance or regulation**
13 **adopted under this subsection may regulate the height at which any**
14 **signs, markers, or other notices described in subdivision (4) are**
15 **placed, including requirements that such signs, markers, or other**
16 **notices be visible at street level.**

17 SECTION 2. IC 8-1-32.3-15.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2021]: **Sec. 15.5. (a) As used in this section,**
20 **"commission" refers to the Indiana utility regulatory commission**
21 **created by IC 8-1-1-2.**

22 **(b) For purposes of this section, "communications service**
23 **provider" includes any person described in section 19(a) of this**
24 **chapter for whom a permit has been issued or approved by a**
25 **permit authority under this chapter.**

26 **(c) This subsection applies to a permit approved by a permit**
27 **authority under this chapter before July 1, 2021, for the location**
28 **of one (1) or more wireless facilities or one (1) or more wireless**
29 **support structures in an area within the jurisdiction of the permit**
30 **authority. Subject to subsection (f), not later than December 31,**
31 **2021, a permit authority for any jurisdiction for which a permit**
32 **subject to this subsection has been approved shall provide to the**
33 **commission, in the form and manner prescribed by the**
34 **commission, the following information:**

35 **(1) The location of each wireless facility or wireless support**
36 **structure for which a permit has been approved, identified by:**

37 **(A) a street address;**

38 **(B) a legal description;**

39 **(C) a highway location using highway mile markers or**
40 **cross streets; or**

41 **(D) any other description or identification of the location**
42 **specified by the commission.**



1 For purposes of this subdivision, a permit authority may
 2 identify a small cell network, or any other installation that
 3 includes multiple wireless facilities, by a single location.

4 (2) For each wireless facility or wireless support structure
 5 identified under subdivision (1):

6 (A) the date on which the permit for the wireless facility or
 7 wireless support structure was approved;

8 (B) if applicable, the date on which installation of the
 9 wireless facility or wireless support structure was
 10 complete, if known;

11 (C) the communications service provider for whom the
 12 permit for the wireless facility or wireless support
 13 structure was approved; and

14 (D) to the extent known, operating specifications for each
 15 identified wireless facility, including evidence of
 16 compliance with any applicable safety regulations
 17 promulgated by the Federal Communications Commission.

18 (d) This subsection applies to a permit approved by a permit
 19 authority under this chapter after June 30, 2021, for the location
 20 of one (1) or more wireless facilities or one (1) or more wireless
 21 support structures in an area within the jurisdiction of the permit
 22 authority. Subject to subsection (f), upon approving a permit
 23 subject to this subsection, a permit authority shall provide to the
 24 commission, in the form and manner prescribed by the
 25 commission, the following information:

26 (1) The location of each wireless facility or wireless support
 27 structure for which the permit was approved, identified by:

28 (A) a street address;

29 (B) a legal description;

30 (C) a highway location using highway mile markers or
 31 cross streets; or

32 (D) any other description or identification of the location
 33 specified by the commission.

34 For purposes of this subdivision, a permit authority may
 35 identify a small cell network, or any other installation that
 36 includes multiple wireless facilities, by a single location.

37 (2) For each wireless facility or wireless support structure
 38 identified under subdivision (1):

39 (A) the date on which the permit for the wireless facility or
 40 wireless support structure was approved;

41 (B) the communications service provider for whom the
 42 permit for the wireless facility or wireless support



- 1 structure was approved; and
 2 (C) to the extent known, operating specifications for each
 3 identified wireless facility, including evidence of
 4 compliance with any applicable safety regulations
 5 promulgated by the Federal Communications Commission.
 6 (e) Subject to subsection (f), the commission shall publish on the
 7 commission's Internet web site any information submitted by a
 8 permit authority under subsection (c) or (d).
 9 (f) The commission and any permit authority submitting
 10 information to the commission under this section:
 11 (1) shall not disclose information reasonably designated as
 12 confidential or proprietary business information by a
 13 communications service provider; and
 14 (2) shall execute appropriate nondisclosure agreements to
 15 prevent the disclosure of confidential or proprietary business
 16 information in connection with information submitted or
 17 published under this section.
 18 (g) The commission's authority under this section is authorized
 19 under IC 8-1-2.6-13(e)(1)(A), notwithstanding:
 20 (1) IC 8-1-2.6-1.1;
 21 (2) IC 8-1-2.6-13; or
 22 (3) IC 8-1-32.5-6.
 23 SECTION 3. IC 8-1-32.3-20, AS ADDED BY P.L.145-2015,
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2021]: Sec. 20. (a) An application for a permit to construct a
 26 new wireless support structure must include only the following:
 27 (1) All information required by section 19 of this chapter.
 28 (2) A construction plan that describes the proposed wireless
 29 support structure and all equipment and network components,
 30 including antennas, transmitters, receivers, base stations, power
 31 supplies, cabling, and related equipment.
 32 (3) Evidence supporting the choice of location for the proposed
 33 wireless support structure, including a sworn statement from the
 34 individual responsible for the choice of location demonstrating
 35 that collocation of wireless facilities on an existing wireless
 36 support structure was not a viable option because collocation:
 37 (A) would not result in the same wireless service functionality,
 38 coverage, and capacity; or
 39 (B) is technically infeasible; or
 40 (C) is an economic burden to the applicant.
 41 as certified by a professional engineer.
 42 (4) If an applicable zoning ordinance specifies that a special



1 exception, special use, contingent use, or conditional use must be
 2 approved for the proposed wireless support structure in
 3 accordance with IC 36-7-4-918.2, evidence showing that the
 4 application complies with the criteria set forth in the ordinance
 5 with respect to the special exception, special use, contingent use,
 6 or conditional use.

7 (5) If the proposed wireless support structure is not a permitted
 8 use under an applicable zoning ordinance, evidence showing that
 9 the application complies with the criteria for a variance of use
 10 from the terms of the zoning ordinance in accordance with
 11 IC 36-7-4-918.4.

12 A permit authority may not require an applicant to submit information
 13 about, and may not evaluate an applicant's business decisions with
 14 respect to, the applicant's designed service, customer demand, service
 15 quality, or desired signal strength to a particular location.

16 (b) An application that contains the information required under
 17 subsection (a) is considered complete.

18 (c) A permit authority shall review an application within ten (10)
 19 business days of its receipt to determine if the application is complete.
 20 If a permit authority determines that an application is not complete, the
 21 permit authority shall notify the applicant in writing of all defects in the
 22 application. If a permit authority does not notify an applicant in writing
 23 of all defects in the application, the application is considered complete.

24 (d) An applicant that receives a written notice under subsection (c)
 25 may cure the defects set forth in the notice and resubmit the corrected
 26 application to the permit authority within thirty (30) days of receiving
 27 the notice. If an applicant is unable to cure the defects within the thirty
 28 (30) day period, the applicant shall notify the permit authority of the
 29 additional time the applicant requires to cure the defects.

30 (e) Subject to subsection (f), not more than ninety (90) days after
 31 making an initial determination of completeness under subsection (c),
 32 a permit authority shall:

33 (1) review the application to determine if it complies with
 34 applicable laws and ordinances governing land use and zoning;
 35 and

36 (2) notify the applicant in writing whether the application is
 37 approved or denied.

38 (f) Notwithstanding the ninety (90) day period set forth in
 39 subsection (e), the following apply:

40 (1) If the applicant requested additional time under subsection (d)
 41 to cure defects in the application, the ninety (90) day period set
 42 forth in subsection (e) is extended for a corresponding amount of



1 time.

2 (2) If the application for the proposed wireless support structure
3 requires a variance of use from the terms of an applicable zoning
4 ordinance in accordance with IC 36-7-4-918.4, the permit
5 authority may have not more than thirty (30) additional days to
6 comply with subsection (e).

7 SECTION 4. IC 8-1-32.3-26, AS AMENDED BY P.L.261-2017,
8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2021]: Sec. 26. (a) An application for a permit or approval for
10 the construction, placement, or use of small cell facilities is subject to
11 the following:

12 (1) The placement of a small cell facility and the associated
13 supporting structure in the public right-of-way is considered a
14 permitted use and is exempt from local zoning review if the total
15 height of the structure supporting the small cell facility does not
16 exceed the greater of:

17 (A) fifty (50) feet measured from grade; or

18 (B) the height of any utility pole in place on July 1, 2017, and
19 within five hundred (500) feet of the proposed small cell
20 facility, plus ten (10) feet.

21 (2) A permit authority shall allow an applicant to submit a single
22 consolidated application for multiple small cell facilities that are
23 located within the permit authority's jurisdiction and constitute a
24 single small cell network. The permit authority shall issue a single
25 permit for the small cell network rather than multiple permits for
26 each small cell facility.

27 (3) The total of any application fees allowed under this section
28 may not exceed the lesser of:

29 (A) the amount charged by the permit authority for an
30 application for a building permit for any similar type of
31 commercial:

32 (i) construction;

33 (ii) activity; or

34 (iii) land use development;

35 within the jurisdiction of the permit authority; or

36 (B) one hundred dollars (\$100) per small cell facility included
37 in the application.

38 (4) With respect to an application for the construction, placement,
39 or use of a small cell facility and the associated supporting
40 structure at a location where a supporting structure does not exist,
41 a permit authority may propose, as an alternative location for the
42 proposed small cell facility, that the small cell facility be



1 collocated on an existing utility pole or on an existing wireless
 2 support structure, **subject to section 27 of this chapter**, if the
 3 existing utility pole or the existing wireless support structure is
 4 located within ~~fifty (50)~~ **one hundred (100)** feet of the location
 5 proposed in the application. The applicant shall use the alternative
 6 location proposed by the permit authority if:

7 (A) the applicant's right to use the alternative location is
 8 subject to reasonable terms and conditions; and

9 (B) the alternative location will not result in technical
 10 limitations or **significant** additional costs, as ~~determined~~
 11 **certified by the applicant: a professional engineer whose**
 12 **selection is agreed to by both the permit authority and the**
 13 **applicant.**

14 (5) With respect to an application for the construction, placement,
 15 or use of a small cell facility and the associated supporting
 16 structure, a permit authority shall follow the procedures and time
 17 limits for review and approval that apply to collocation permit
 18 applications under section 22 of this chapter. However,
 19 notwithstanding section 22(f) of this chapter, not more than sixty
 20 (60) days after making an initial determination of completeness
 21 under section 22(d) of this chapter with respect to an application
 22 for the construction, placement, or use of a small cell facility and
 23 the associated supporting structure, a permit authority shall notify
 24 the applicant in writing whether the application is approved or
 25 denied. However, if the applicant requested additional time as
 26 allowed under section 22(e) of this chapter to cure defects in the
 27 application, the permit authority may extend the sixty (60) day
 28 period for a corresponding amount of time.

29 (b) Subject to subsection (c), with respect to the construction,
 30 placement, or use of any small cell facility and the associated
 31 supporting structure, a permit authority shall not do any of the
 32 following:

33 (1) Limit the placement of the small cell facility by minimum
 34 separation distances or maximum height limitations.

35 (2) Impose unreasonable requirements regarding the maintenance
 36 or appearance of the small cell facility and associated supporting
 37 structure, including requirements concerning the types of
 38 materials to be used or the screening or landscaping of the
 39 location.

40 ~~(3) Condition the grant of approval on the applicant's agreement~~
 41 ~~to allow other wireless facilities to be placed at, attached to, or~~
 42 ~~located on the associated wireless support structure or utility pole.~~



- 1 ~~(4)~~ **(3)** Limit the duration of any permit that is granted. However,
 2 a permit authority may require that, as applicable, construction
 3 commence not later than two (2) years after the date the permit is
 4 granted.
- 5 ~~(5)~~ **(4)** Prohibit an applicant from locating a small cell facility,
 6 wireless support structure, or utility pole in a residential area.
- 7 ~~(6)~~ **(5)** Impose setback or fall-zone requirements for the
 8 associated wireless support structure or utility pole that are
 9 different from requirements imposed on other types of structures
 10 in the right-of-way.
- 11 ~~(7)~~ **(6)** Require the removal of existing wireless support
 12 structures, wireless facilities, or utility poles, wherever located, as
 13 a condition for approval of the application. However, this
 14 subdivision does not prohibit the permit authority from adopting
 15 reasonable rules intended to ensure the public health, safety, and
 16 welfare regarding the removal of an abandoned wireless support
 17 structure or abandoned wireless facilities.
- 18 (c) This chapter does not prohibit a permit authority from applying
 19 a reasonable and generally applicable safety regulation under
 20 IC 8-1-2-101(b) to the construction, placement, or use of small cell
 21 facilities and associated supporting structures in the public
 22 right-of-way.
- 23 (d) The construction, placement, or use of small cell facilities on a
 24 utility pole owned or controlled by a governmental unit is subject to the
 25 following:
- 26 (1) The rate for the construction, placement, or use of small cell
 27 facilities on the utility pole owned or controlled by the unit may
 28 not exceed fifty dollars (\$50) per utility pole per year.
- 29 (2) For a utility pole used to provide communications service or
 30 electric service, the parties to the construction, placement, or use
 31 shall comply with the process for make ready work under 47
 32 U.S.C. 224 and any associated implementing regulations. The
 33 good faith estimate of the unit owning or controlling the utility
 34 pole with respect to any make ready work necessary to enable the
 35 utility pole to support the requested placement must include pole
 36 replacement if necessary.
- 37 (3) For a utility pole that does not support aerial facilities used to
 38 provide communications service or electric service, the unit shall
 39 provide a good faith estimate for any make ready work necessary
 40 to enable the utility pole to support the requested construction,
 41 placement, or use, including pole replacement if necessary, not
 42 later than sixty (60) days after the unit's receipt of a complete



1 application. Make ready work, including any pole replacement,
 2 shall be completed not later than sixty (60) days after the
 3 applicant's written acceptance of the good faith estimate.

4 (4) The unit shall not require more make ready work than required
 5 to meet applicable codes (as defined in section 15(b)(3) of this
 6 chapter) or industry standards. Fees for make ready work may not
 7 include costs related to preexisting or prior damage or to
 8 noncompliance. Fees for make ready work, including any utility
 9 pole replacement, may not:

10 (A) exceed actual costs or the amount charged to
 11 communications service providers for similar work; or

12 (B) include any consultants' fees or expenses.

13 (5) Subject to subdivision (7), the unit shall offer rates, fees, and
 14 other terms for the construction, placement, or use that comply
 15 with this chapter. Not later than:

16 (A) December 31, 2017; or

17 (B) three (3) months after receiving the first request under this
 18 chapter for the construction, placement, or use of a small
 19 wireless facility on a utility pole owned or controlled by the
 20 unit;

21 whichever occurs later, the unit shall establish and make
 22 available, by ordinance or otherwise, the rates, fees, and terms
 23 that govern the construction, placement, or use of small cell
 24 facilities on utility poles owned or controlled by the unit and that
 25 are in compliance with this chapter.

26 (6) The unit or a utility owned by the unit shall not impose a
 27 rental or other recurring fee for small cell facilities that are strung
 28 or located between utility poles if one (1) or more of the utility
 29 poles has an associated attachment for which a rental rate is
 30 charged.

31 (7) The unit may impose additional general terms and conditions
 32 for the construction, placement, or use of small cell facilities on
 33 utility poles owned or controlled by the unit if the additional
 34 general terms and conditions are:

35 (A) consistent with this chapter;

36 (B) reasonable;

37 (C) nondiscriminatory; and

38 (D) generally applicable to users of the rights-of-way.

39 Additional general terms and conditions authorized by this
 40 subdivision must be included in the rates, fees, and terms that the
 41 unit is required to establish and make available under subdivision

42 (5).



1 (e) Subject to sections 17(a), 25, and 27 of this chapter, this
 2 chapter does not prohibit a local unit or a permit authority from
 3 offering or approving tax incentives or other incentives for
 4 communications service providers who offer or agree to collocate
 5 a proposed wireless facility on an existing utility pole or on an
 6 existing wireless support structure, instead of placing the proposed
 7 wireless facility on a new wireless support structure at a location
 8 where a supporting structure does not exist.

9 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this
 10 SECTION, "committee" refers to the interim study committee on
 11 energy, utilities, and telecommunications established by
 12 IC 2-5-1.3-4(8).

13 (b) As used in this SECTION, "small cell facility" has the
 14 meaning set forth in IC 8-1-32.3-9.

15 (c) The legislative council is urged to assign to the committee the
 16 task of studying the impact on human health of radiation or radio
 17 frequency fields associated with wireless communications facilities,
 18 including small cell facilities and other wireless facilities used in
 19 connection with 4G and 5G communications technology. If the
 20 committee is assigned to study the topic described in this
 21 SECTION, the committee:

22 (1) shall consider current scientific research on the topic,
 23 including any independent studies conducted or commissioned
 24 by government agencies, academic institutions, or other
 25 independent agencies, organizations, or entities; and

26 (2) request information on the topic from:

27 (A) communications service providers, subject to the same
 28 requirements that apply to the Indiana utility regulatory
 29 commission under IC 8-1-2.6-4(e); and

30 (B) any stakeholders, experts, and other interested parties.

31 (d) This SECTION expires January 1, 2022.

32 SECTION 6. An emergency is declared for this act.

