

## HOUSE BILL NO. 695

INTRODUCED BY L. BREWSTER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING POLE ATTACHMENT RULES AND ENFORCEMENT; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Competitive access to poles -- enforcement -- definitions.** (1) A pole

owner shall allow attachers to access all its poles in accordance with the rules, regulations, and orders of the federal communications commission promulgated under 47 U.S.C. 224 or any successor regulation if:

(a) a pole owner or its affiliate receives or has received broadband grant funding; and

(b) a pole owner or its affiliate offers broadband service to its subscribers or has committed to offer broadband service with its receipt of broadband grant funding.

(2) Any grant agreement entered into by the department for the provision of broadband grant funding must require an applicant to comply with, and must commit any affiliate of the applicant that is a pole owner to comply with subsection (1) throughout its in-state service territory. An agreement entered into prior to [the effective date of this chapter] must be amended to ensure compliance with this chapter.

(3) An attacher aggrieved by a pole owner's failure to comply with subsection (1) may bring civil action in the district court of the first judicial district, Lewis and Clark County, and the court must have jurisdiction over the action. If an attacher prevails in the action, the court shall award actual damages, equitable relief, and reasonable attorney fees and costs, as appropriate.

(4) As used in this section, the following definitions apply:

(a) "Affiliate" means a person:

(i) that is under common ownership or control; or

(ii) that is engaged in a partnership, joint venture, or similar business arrangement related to the provision of broadband service or the deployment of broadband facilities.

(b) "Attacher" means a person or entity entitled to make or request a pole attachment pursuant to

1 47 U.S.C. 224 or any successor regulation.

2 (c) "Broadband grant funding" means any funding provided by the department of administration or  
3 any federal agency or commission to support the deployment of broadband facilities or the provision of  
4 broadband service over the facilities in which the funding is derived from state or federal funds.

5 (d) "Department" means the department of administration provided for in 2-15-1001.

6 (e) "Pole owner" means a person, entity, or rural electric cooperative pursuant to Title 35, chapter  
7 18, or their successors or assignees that own or operate poles used for electric distribution, excluding a utility  
8 as defined in 47 U.S.C. 224(a)(1).

9

10 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as a new  
11 chapter in Title 90, and the provisions of Title 90 apply to [section 1].

12

13 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

14 - END -