HOUSE . . . . . No. 4177

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to utility poles.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Section 25A of Chapter 166 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the first sentence and inserting in place thereof the following sentence:-

The following terms as used Sections 25A and 25B shall have the following meanings:

Section 2. Said Section 25A of chapter 166, is hereby amended by inserting after the definition of 'attachment' the following definition:-

"Double Pole", means a double utility pole, which exists when a new pole is installed next to an already existing pole in order to support the existing pole, and allow for the transfer of wires and attachments from the existing pole.

Section 3. Said Section 25A of chapter 166, is hereby amended by inserting after the definition of 'utility' the following definitions:-

"Pole Lifecycle Management System", means a web-based database accessible by the department, municipal officials, licensees, and utilities, containing information about double poles, and where each licensee and utility is notified electronically, in turn, when it is time to transfer an attachment according to a previously established prioritization.

"PLM", means Pole Lifecycle Management

Section 4. Chapter 166 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after Section 25A, the following section:-

Section 25B. (a) Utilities shall be jointly responsible for the establishment, operation and accuracy of a single statewide Pole Lifecycle Management System. Funding requirements for

21 the database shall be allocated to all pole owning utilities subject to joint approval by the
22 department of telecommunications and cable and the department of public utilities.

23 (b) All utilities and licensees with pole attachments shall participate in and have access to
24 the PLM System. Utility pole owners and municipal officials may file a complaint with the
25 department of telecommunications and cable regarding licensees and utility pole owners that fail
26 to use the database, with the department of public utilities retaining the right to intervene.

27 (c) The department of telecommunications and cable and the department of public
28 utilities shall promulgate rules and regulations consistent with this section.

29 Section 5. (a) Notwithstanding any general or special law to the contrary, within 1 year of
30 the effective date of this act, the department of public utilities and the department of
31 telecommunications and cable shall jointly hold a public hearing and promulgate rules and
32 regulations relative to reducing the number of double poles in the commonwealth pursuant to
33 section 34B of chapter 164 and section 25B of chapter 166 of the General Laws. The
34 departments shall consider the recommendations of the double pole remediation advisory council
35 in promulgating rules and regulations.

36 (b) The departments may, in consultation with the double pole remediation advisory
37 council, promulgate rules and regulations that allow for the commonwealth or municipalities to
38 impose fines or other penalties on pole owners or pole attachees for the failure to remove double
39 poles in a reasonable timeframe. Municipalities may enforce, by the enactment of a local
40 ordinance or bylaw, any uniform, statewide fine structure in accordance with such rules and
41 regulations developed by the departments.

42 (c) The department of public utilities and the department of telecommunications and
43 cable shall jointly issue a report relative to double poles within the Commonwealth within 90
44 days following the passage of this act. The report shall provide an assessment of progress made
45 in reducing the number of double poles in the commonwealth since the issuance of the report
46 previously issued pursuant to Section 110 of Chapter 46 of the Acts of 2003 relative to reducing
47 the number of double utility poles within the commonwealth. Such assessment shall include
48 data, by municipality, on the removal of double poles installed before January 31, 2004, the
49 removal of double poles installed after January 31, 2004, and double poles remaining to be
50 removed. With respect to each double pole remaining to be removed, the data shall include the
51 date of its installation and the pole owner.

52 (d) The Governor shall convene a double pole remediation advisory council which shall
53 consist of 11 members, including 1 person representing each of the following (1) telephone
54 company pole owners, (2) electric distribution company pole owners, (3) municipal light plants,
55 (4) CATV Operator pole attachees, (5), the attorney general, (6) organized telephone pole
56 workers, (7) organized electricity distribution pole workers, (8) the department of public utilities,
57 and (9) the department of telecommunications and cable. 2 persons representing municipalities,

58 chosen from a list compiled by the Massachusetts Municipal Association, shall be members of
59 the council. The chair of the department of public utilities and the commissioner of the
60 department of telecommunications and cable shall serve as co-chairs of the council.

61 (e) The council shall meet within 90 days following the passage of this act.

62 (f) The council shall analyze possible measures to improve and accelerate the removal of
63 double poles in the commonwealth. Such analysis shall include, but not be limited to, the
64 following measures:

65 (1) measures to ensure the comprehensiveness, accuracy, and timeliness of the
66 information contained in the Pole Lifecycle Management ("PLM") system

67 (2) measures to ensure access to the information contained in the PLM system by all pole
68 users, including municipalities

69 (3) requiring pole owners to provide semi-annual reports to each municipality listing all
70 double poles in their municipality, their location and/or pole number, the date of installation, and
71 the pole user currently identified by the PLM system as "first in line" to remove its wires and
72 other equipment

73 (4) mandating meetings of pole owners and municipalities, to take place in and at the
74 initiative of the municipalities, to discuss the status, scheduling, and prioritization of double pole
75 removals

76 (5) securing an enforceable commitment from pole owners to remove by January 1, 2014
77 their existing backlog of double poles and to devote adequate personnel and resources to ensure
78 that all new double poles are removed no more than one year after installation

79 (6) authorizing the commonwealth or municipalities to impose fines on pole owners that
80 do not respond within 30 days to a formal demand by a municipality to remove a double pole
81 installed for more than 180 days

82 (7) authorizing the commonwealth or municipalities to impose fines on pole owners that
83 do not respond within 30 days to a formal demand by a municipality to move a pole to meet a
84 construction schedule on a public way

85 (8) authorizing the commonwealth or municipalities to impose escalating fines on poles
86 owners or pole attachees based on the length of delay on removing a double pole

87 (g) The council shall report to the department of telecommunications and cable, the
88 department of public utilities, the Joint Committee on Telecommunications, Utilities and Energy
89 and the Joint Committee on Municipalities and Regional Government their recommendations to
90 reduce the number of double poles in the commonwealth, including proposed legislation to

91 enforce section 34B of Chapter 164 of the General Laws and any other legislation or regulatory
92 measures, by December 31, 2012.

93 (h) The double pole remediation advisory council may utilize the resources and staff of
94 the department of public utilities, the department of telecommunications and cable and other
95 relevant agencies of state government.

96 (i) The council must approve their recommendations with a 2/3 majority vote. If
97 approval is not granted by December 31, 2012, the department of public utilities and department
98 of telecommunications and cable shall promulgate the rules and regulations consistent with this
99 Act without the recommendations of the council.

100 (j) No later than July 1st of each year, beginning July 1, 2013, the department of public
101 utilities and the department of telecommunications and cable shall jointly submit an annual
102 report to the legislature describing the status of double pole remediation.