

# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### **SENATE, No. 995**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 8, 2023

The Senate Economic Growth Committee reports favorably Senate Bill No. 995, with committee amendments.

As amended and reported, this bill establishes several requirements concerning the maintenance and removal of certain telecommunications and cable lines, including the removal or correction of abandoned lines, the removal of copper telephone lines, and the marking of new and existing lines.

#### *Removal of Abandoned Lines*

The bill requires certain entities, including utilities, corporations, municipalities, and persons that own above-ground telecommunications or cable lines that are found to be abandoned, to either correct the condition that causes the line to be abandoned or remove the abandoned line from all points of attachment after receiving a request for removal submitted in accordance with this bill. The bill also provides that when an entity ceases to do business in this State, the entity would be required to remove its lines from all points of attachment, except for any lines for which ownership was transferred to another entity and which is not otherwise deemed to be abandoned.

Under the bill, the owner of a pole, building, or other structure to which a suspected abandoned line is attached may submit a request for removal to the entity owning the line. The bill also permits any person, municipality, utility, or corporation to submit a request for removal of a suspected abandoned line to the Board of Public Utilities (BPU), which request would be transmitted to the entity that owns the line within five business days. In either case, the bill requires the BPU to prescribe the form and manner for the submission of these requests, except that the bill requires the BPU to allow these requests to be submitted through the official Internet websites of the entities and BPU, respectively.

Within 30 calendar days after receiving a request to remove a suspected abandoned line, the bill requires each entity to investigate and determine whether the line is abandoned. If the line is deemed to be abandoned, the bill requires the entity to either correct the condition causing the line to be abandoned or remove the line from all points of

attachment within 30 calendar days. Under the bill, an abandoned line would include any above-ground telecommunications or cable line that: (1) is not terminated at both ends to equipment or to a customer's premises; (2) is not maintained in a safe condition; (3) is not intended for future use; or (4) has not been in operation for a period of at least 24 consecutive months, and the owner of a structure to which the line is attached has submitted a request for removal of the line. However, the bill provides that any line that is overlashed would not be deemed to be abandoned.

Additionally, the bill requires each entity to submit a written report to the BPU every 90 calendar days beginning after the effective date of the bill, which report is required to describe all notifications, complaints, and requests received by the entity concerning a suspected abandoned line. The bill also requires each entity to provide annual written notice to its customers concerning the provisions of the bill and including an explanation of the processes through which the customer may submit a request for removal of a suspected abandoned line. The bill requires the BPU to prescribe a form and manner for the provision of this notice, except that the notice would be provided to each customer using the same method as the entity provides a bill to the customer, and the notice would be made available in both English and Spanish.

This bill also provides that during the course of the employee's employment, each employee of an entity who is responsible for installing lines or providing service calls or in-person technical assistance would have an affirmative duty to investigate any line owned by the entity to determine whether the line is abandoned. If the employee of an entity discovers an abandoned line during the course of the employee's employment, the employee would be required to either remove the abandoned line, if authorized by the entity, or report the abandoned line to the entity for further action. Within 90 calendar days of receiving the report, the entity would be required to transmit a copy of the report to the BPU.

#### *Marking of Entity Lines*

The bill provides that when an entity installs certain new lines, which lines are attached to a building or structure and owned by the entity, the entity would be required to mark certain information on the end of the line that is attached to the building or structure. This information would include the initials of the entity's name, abbreviation of the entity's name, corporate symbol, or other distinguishing mark or code by which ownership may be readily and definitely ascertained. The bill also provides that when an entity owns or maintains an existing line that is attached to a building or structure, which line was installed before the effective date of the bill and does not contain the marking required under the bill, the entity would be required to mark this information on the end of the line that is attached

to the building or structure after the entity discovers that the line does not contain the markings.

#### *Penalty Provisions*

Under the bill, an entity that fails to comply with the requirements of the bill concerning the removal of abandoned lines or the marking of lines may be subject to a fine after the BPU has submitted a written notice of an alleged violation to the entity. Specifically, the bill provides that if the entity fails to cure the alleged violation within 30 calendar days after receiving the notice, the BPU may impose a fine of \$100 for each day in which the violation exists, beginning on the 31st calendar day after the submission of the notice. The bill also sets forth various factors that the BPU may consider when determining whether to impose a fine, and if appropriate, the amount of the fine.

#### *Removal of Copper Telephone Lines*

The bill requires any entity owning one or more above-ground copper telephone lines, which lines are no longer in operation, to remove the lines from all points of attachment. Specifically, the bill requires each entity to submit a written plan to the BPU, within 12 months after the effective date of the bill, for the removal of all copper telephone lines. At a minimum, the bill requires each entity to remove all copper telephone lines owned by the entity within 10 years following the submission of the plan, except that no less than 10 percent of the lines may be removed during any year of this period. If an entity fails to comply with any requirements of the bill concerning the removal of copper telephone lines, the bill provides that the entity may be subject to a fine, in such amounts as the BPU deems appropriate.

As amended and reported, this bill is identical to Assembly Bill No. 1100 (2R), which was also amended and reported by the committee on this date.

#### COMMITTEE AMENDMENTS:

The committee amendments provide the following changes to the bill:

(1) revise the definitions of various terms used in the bill, including the terms “abandoned,” “entity,” and “line,” and insert definitions for certain other terms, including “copper telephone line”;

(2) provide that when a line is deemed to be abandoned, the entity owning the line would be required to either correct the condition causing the line to be abandoned or remove the line from all points of attachment. As introduced, the bill required these entities to remove any line that was abandoned or permanently out of service from all points of attachment;

(3) require an entity that ceases to do business in the State to remove abandoned lines from all points of attachment, except for any lines for which ownership is transferred to another entity;

(4) revise the manner in which entities would be required to mark certain information on new and existing lines. The amendments provides that an entity would only be required to mark the end of the line attached to a building or structure, and the clarifies that the entity would only be required to mark existing lines upon the discovery that the line does not contain the markings required under the bill;

(5) remove the requirement for all requests for the removal of a suspected abandoned line to be submitted in written form;

(6) remove a provision of the bill that authorized pole attachment agreements to require entities to pay security deposits to the owners of certain premises, which deposits would be refunded upon the removal of a line;

(7) allow any person, municipality, utility, or corporation to submit a request to the BPU for the removal of a suspected abandoned line, provided the line is found to be abandoned by the entity owning the line;

(8) require the BPU to prescribe the form and manner in which: (i) the owner of a pole, building, or other structure to which a suspected abandoned line is attached may submit a request for removal to the entity owning the line; and (ii) any other person, municipality, utility, or corporation may submit a request for removal to the BPU;

(9) provide that after an entity has received a request to remove a suspected abandoned line, the entity would be required to investigate and determine whether the line is abandoned within 30 calendar days of receiving the request. Thereafter, if the line is deemed to be abandoned, the entity would be required to either correct the condition causing the line to be abandoned or remove the line from all points of attachment within 30 calendar days of the date of such determination;

(10) require entities to submit written reports to the BPU every 90 days, which reports describe all notifications, complaints, and requests received by the entity regarding a suspected abandoned line and explains all actions undertaken by the entity in response to these notifications, complaints, and requests;

(11) require entities to provide annual, written notice to customers concerning the provisions of the bill and the processes through which a customer may request the removal of a suspected abandoned line;

(12) establish penalty provisions for entities that fail to comply with the requirements of the bill concerning the removal of abandoned lines and the marking of lines;

(13) require entities that own copper telephone lines to submit written plans to the BPU for the removal of all copper telephone lines owned by the entity, which plans would provide for the removal of all such lines over a 10-year period. As amended, the bill would require each entity to submit a written report within 12 months after the

effective date of the bill for the removal of all copper telephone lines known upon the effective date of the bill. Beginning three years after the effective date of the bill, and every three years thereafter, each entity would be required to submit a written plan for the removal of all copper telephone lines discovered after the submission of the previous plan submitted by the entity;

(14) establish penalty provisions for entities that fail to comply with the requirements of the bill concerning the removal of copper telephone lines;

(15) establish an affirmative duty for certain employees of entities, during the course of their employment, to investigate and determine whether any lines owned by the entity are abandoned. The amendments also require employees who discover an abandoned line to either remove the line, if authorized by the entity, or report the line to the entity for further action, and require the entities to transmit copies of these reports to the BPU;

(16) authorize the BPU to promulgate rules and regulations to implement the provisions of this bill. As introduced, the bill would have required the BPU and Department of Community Affairs to adopt rules and regulations to implement the bill; and

(17) provide technical corrections to the bill, including revisions to the title and synopsis of the bill.