

SENATE, No. 2182

STATE OF NEW JERSEY 221st LEGISLATURE

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SYNOPSIS

Requires entities to remove abandoned lines and mark information on certain lines.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the removal and marking of certain lines and
2 supplementing Title 48 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 “Abandoned” means any line that : (1) is not terminated at both
10 ends to equipment or to a customer’s premises; (2) is not
11 maintained in a safe condition; (3) is not intended for future use; or
12 (4) has not been in operation for a period of at least 24 consecutive
13 months, and the owner of a structure to which the line is attached
14 has submitted a request for removal of the line pursuant to section 3
15 of P.L. , c. (C.) (pending before the Legislature as this
16 bill). The term “abandoned” shall not include any line that is
17 overlashed.

18 “Board” means the Board of Public Utilities or any successor
19 agency.

20 “Cable television service” means the same as the term is defined
21 in section 3 of P.L.1972, c.186 (C.48:5A-3).

22 “Entity” means a person, municipality, utility, or corporation
23 having ownership of a line in this State, including ownership
24 acquired by sale or corporate merger.

25 “Line” means an above-ground cable or wire attached to a pole,
26 building, or other structure, used or useful for the provision of any
27 telecommunications service or cable television service, including,
28 but not limited to, a copper telephone line, and shall include any
29 equipment or facility associated with that line attached to that pole,
30 building, or other structure.

31 “Maintained in a safe condition” means any time in which the
32 state of a line is in compliance with any applicable rules and
33 regulations adopted by the board concerning plant and facility
34 construction, which regulations shall include N.J.A.C.14:5-2.1,
35 N.J.A.C.14:10-1A.12, and N.J.A.C.14:18-2.1, as applicable, as well
36 as any other successor regulations.

37 “Telecommunications service” means the same as the term is
38 defined in section 3 of P.L.1972, c.186 (C.48:5A-3).

39 “Utility” means any “public utility” as defined in R.S.48:2-13, or
40 “local utility” as defined in section 3.1 of P.L.1975, c.291
41 (C.40:55D-4).

42

43 2. a. Notwithstanding any law, rule, regulation, or order to the
44 contrary, and in accordance with federal law, if applicable, an entity
45 owning a line that is abandoned shall either correct the condition
46 causing the line to be abandoned or remove that line from all points
47 of attachment, as provided under subsection d. of section 3 of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 b. Notwithstanding any law, rule, regulation, or order to the
2 contrary, when an entity that owns one or more lines in the State
3 ceases to do business in the State, the entity shall remove the lines
4 from all points of attachment, except not including any line for
5 which the ownership is transferred to another entity and the line is
6 not otherwise deemed to be abandoned.

7 c. (1) Following the effective date of P.L. , c. (C.)
8 (pending before the Legislature as this bill) and in accordance with
9 federal law, if applicable, an entity that installs a new line, which
10 line is attached to a building or structure and owned by the entity ,
11 shall mark the end of the line attached to the building or structure
12 with the initials of the entity's name, abbreviation of the entity's
13 name, corporate symbol, or other distinguishing mark or code by
14 which ownership may be readily and definitely ascertained.

15 (2) When an entity owns or maintains a line that is attached to a
16 building or structure, which line was installed before the effective
17 date of P.L. , c. (C.) (pending before the Legislature as this
18 bill), and the entity discovers that the line does not contain the
19 markings specified in paragraph (1) of this subsection, the entity
20 shall mark the end of the line attached to the building or structure
21 with the initials of the entity's name, abbreviation of the entity's
22 name, corporate symbol, or other distinguishing mark or code by
23 which ownership may be readily and definitely ascertained.
24 Nothing in this subsection shall be construed to require an entity to
25 affirmatively search for any unmarked lines.

26
27 3. a. Beginning 12 months after the effective date of P.L. , c.
28 (C.) (pending before the Legislature as this bill), in accordance
29 with federal law, if applicable, and to the extent permitted under
30 any applicable pole attachment agreement, the owner of a pole,
31 building, or other structure to which a suspected abandoned line is
32 attached may send a request, in accordance with subsection c. of
33 this section, to the entity owning that line to request removal if the
34 line is found to be abandoned by the entity.

35 b. Beginning 12 months after the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), any
37 person, municipality, utility, or corporation in the State may submit
38 a request, in accordance with subsection c. of this section, to the
39 board for the removal of any suspected abandoned line, provided
40 that the line is found to be abandoned by the entity owning the line.
41 Within five business days after receiving the request, the board
42 shall transmit a written copy of the request to the entity that owns
43 the line. Nothing in this section shall prevent or prohibit a person,
44 municipality, utility, or corporation from directly notifying an entity
45 of a suspected abandoned line.

46 c. (1) Within 10 months after the effective date of P.L. ,
47 c. (C.) (pending before the Legislature as this bill), the board
48 shall prescribe the form and manner in which the owner of a pole,

1 building, or structure may submit a request, pursuant to subsection
2 a. of this section, for the removal of a suspected abandoned line. In
3 addition to any other information that the board deems necessary,
4 the form shall require the requestor to provide the pole number,
5 address, or latitude and longitude of the associated pole, and a
6 photograph of the abandoned line. At a minimum, the board shall
7 allow these requests to be submitted through the official Internet
8 website of the entity.

9 (2) Within 10 months after the effective date of P.L. ,
10 c. (C.) (pending before the Legislature as this bill), the board
11 shall prescribe the form and manner in which a person,
12 municipality, utility, or corporation may submit a request, pursuant
13 to subsection b. of this section, for the removal of a suspected
14 abandoned line. In addition to any other information that the board
15 deems necessary, the form shall require the requestor to provide the
16 pole number, address, or latitude and longitude of the associated
17 pole, and a photograph of the abandoned line, if available. At a
18 minimum, the board shall allow these requests to be submitted
19 through the official Internet website of the board.

20 (3) Within 11 months after the effective date of P.L. ,
21 c. (C.) (pending before the Legislature as this bill), the
22 official Internet website of the board and each entity owning one or
23 more lines in the State shall provide instructions, in a clear and
24 conspicuous manner, concerning the submission of the requests to
25 remove suspected abandoned lines
26 and the rights of customers under P.L. , c. (C.) (pending
27 before the Legislature as this bill).

28 d. Within 30 calendar days after the date on which an entity
29 receives a request to remove a suspected abandoned line, submitted
30 pursuant to this section, the entity shall investigate and determine
31 whether the line is abandoned. If the line is deemed to be
32 abandoned, within 30 calendar days after the date of such
33 determination, the entity shall either correct the condition causing
34 the line to be abandoned or remove the line.

35 e. Within 90 calendar days after the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), and every
37 90 calendar days thereafter, the entity shall submit a written report
38 to the board, which report shall include a description of all
39 notifications, complaints, and requests received by the entity,
40 including all reports and notifications received pursuant to section 5
41 of P.L. , c. (C.) (pending before the Legislature as this bill),
42 concerning a suspected abandoned line since the date on which the
43 entity submitted its most recent report pursuant to this subsection.
44 For each notification, complaint, or request, the report shall include:

45 (1) the date on which the entity received the notification,
46 complaint, or request;

47 (2) the manner in which the notification, complaint, or request
48 was received;

1 (3) the basis of the entity's determination of whether the line is
2 abandoned;

3 (4) a description of all actions undertaken by the entity with
4 respect to the line, including any actions to remove, overlash, or
5 mark the line, and the dates on which such actions were taken; and

6 (5) any other information that may be required by the board.

7 f. Beginning 12 months after the effective date of P.L. ,
8 c. (C.) (pending before the Legislature as this bill), and every
9 12 months thereafter, each entity shall provide written notice to
10 each customer of the entity, which notice shall inform the customer,
11 in clear and conspicuous language, that the rights of the customer
12 under P.L. , c. (C.) (pending before the Legislature as this
13 bill) can be found on the entity's official Internet website. The
14 written notice shall be provided in a form and manner approved by
15 the board, except that the notice shall be provided to each customer
16 using the same method as the entity provides a bill to the customer
17 and in the same language as the bill is provided to the customer, and
18 the notice may be included as a part of the customer's bill or as an
19 additional notice to the customer.
20

21 4. a. If an entity fails to comply with any requirements of
22 section 2 or 3 of P.L. , c. (C.) (pending before the
23 Legislature as this bill), the entity may be subject to a fine, as set
24 forth in this section, which fine shall be enforced by the board.

25 b. Before an entity may be subject to a fine under this section,
26 the board shall provide the entity with written notice of the alleged
27 violation. Within 30 calendar days of receiving the notice, the
28 entity shall be permitted to cure the alleged violation or demonstrate
29 that the entity has not violated the requirements of section 2 or 3 of
30 P.L. , c. (C.) (pending before the Legislature as this bill).

31 c. If within 30 calendar days of receiving the notice, the entity
32 fails to cure the alleged violation or fails to demonstrate that the
33 entity has not violated the requirements of section 2 or 3 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 the board may impose a maximum aggregate fine of \$500 for each
36 day in which the violation exists, beginning on the 31st calendar
37 day after the submission of the written notice. In determining
38 whether to impose a fine and, if appropriate, in determining the
39 amount of the fine, the board may consider the following factors:

40 (1) the nature, circumstances, and magnitude of the violations;

41 (2) the entity's history of prior violations during the prior three-
42 year period;

43 (3) any good faith efforts by the entity to cure the violation
44 within a reasonable time period following notice; and

45 (4) any other considerations that the board may deem
46 appropriate.

1 5. During the course of the employee's employment, each
2 employee of an entity, or subcontractor of an entity, who is
3 responsible for installing lines or responding to service calls shall
4 have an affirmative duty to report any line that the employee
5 reasonably believes to be under the ownership of the employer, or
6 in the case of the employee of a subcontractor, under the ownership
7 of the entity for whom the subcontractor is engaged in work, and
8 that the employee reasonably suspects to be abandoned, which line
9 is attached to a pole or structure which the employee encounters
10 during the normal course of installing lines or responding to service
11 calls. If the employee of an entity who is responsible for installing
12 lines or responding to service calls discovers an abandoned line
13 during the normal course of the employee's work, the employee
14 shall have an affirmative duty to either remove the abandoned line,
15 if authorized by the entity, or report the abandoned line to the entity
16 for further action.

17
18 6. The board may promulgate rules and regulations, pursuant to
19 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
20 et seq.), to implement the provisions of P.L. , c. (C.)
21 (pending before the Legislature as this bill) for entities under its
22 jurisdiction, as applicable. The board may be assisted, as
23 appropriate, by other participating agencies, departments, boards,
24 and authorities, including the Office of Information Technology, in
25 the promulgation of such rules and regulations as the board deems
26 necessary.

27
28 7. This act shall take effect immediately, but shall remain
29 inoperative for 90 days from the date of enactment.

30
31

32 STATEMENT

33

34 This bill establishes several requirements concerning the
35 maintenance and removal of certain telecommunications and cable
36 lines, including the removal or correction of abandoned lines, the
37 removal of copper telephone lines, and the marking of new and
38 existing lines.

39 The bill requires certain entities, including utilities, corporations,
40 municipalities, and persons that own above-ground
41 telecommunications, cable lines, and copper telephone lines that are
42 found to be abandoned, to either correct the condition that causes the
43 line to be abandoned or remove the abandoned line from all points of
44 attachment after receiving a request for removal submitted in
45 accordance with this bill. The bill also provides that when an entity
46 ceases to do business in this State, the entity would be required to
47 remove its lines from all points of attachment, except for any lines for

1 which ownership was transferred to another entity and which is not
2 otherwise deemed to be abandoned.

3 Under the bill, the owner of a pole, building, or other structure to
4 which a suspected abandoned line is attached may submit a request for
5 removal to the entity owning the line. The bill also permits any
6 person, municipality, utility, or corporation to submit a request for
7 removal of a suspected abandoned line to the Board of Public Utilities
8 (BPU), which request would be transmitted to the entity that owns the
9 line within five business days. Any forms would be required to
10 provide the pole numbers, address, or latitude and longitude of the
11 associated pole, and photograph of the abandoned line. In either case,
12 the bill requires the BPU to prescribe the form and manner for the
13 submission of these requests, except that the bill requires the BPU to
14 allow these requests to be submitted through the official Internet
15 websites of the entities and BPU, respectively.

16 Within 30 calendar days after receiving a request to remove a
17 suspected abandoned line, the bill requires each entity to investigate
18 and determine whether the line is abandoned. If the line is deemed to
19 be abandoned, the bill requires the entity to either correct the condition
20 causing the line to be abandoned or remove the line from all points of
21 attachment within 30 calendar days. Under the bill, an abandoned line
22 would include any above-ground telecommunications or cable line
23 that: (1) is not terminated at both ends to equipment or to a customer's
24 premises; (2) is not maintained in a safe condition; (3) is not intended
25 for future use; or (4) has not been in operation for a period of at least
26 24 consecutive months, and the owner of a structure to which the line
27 is attached has submitted a request for removal of the line. However,
28 the bill provides that any line that is overlashed would not be deemed
29 to be abandoned.

30 Additionally, the bill requires each entity to submit a written report
31 to the BPU every 90 calendar days beginning after the effective date of
32 the bill, which report is required to describe all notifications,
33 complaints, and requests received by the entity concerning a suspected
34 abandoned line. The report would be required to include a description
35 of all reports and notifications received from an employee of the entity
36 or an employee of the subcontractor of the entity. The bill also requires
37 each entity to provide annual written notice to its customers
38 concerning the provisions of the bill and including an explanation of
39 the processes through which the customer may submit a request for
40 removal of a suspected abandoned line. The bill requires the BPU to
41 prescribe a form and manner for the provision of this notice, except
42 that the notice would be provided to each customer using the same
43 method as the entity provides a bill to the customer, and the notice
44 would be made available in both English and Spanish.

45 This bill also provides that during the course of the employee's
46 employment, each employee of an entity who is responsible for
47 installing lines or responding to service calls would have an
48 affirmative duty to report any line that the employee reasonable

1 believes to be under the ownership of the employer or, in the case of
2 an employee of a subcontractor, those lines are under the ownership of
3 the entity for whom the subcontractor is engaged to work abandoned.
4 If the employee of an entity discovers an abandoned line during the
5 course of the employee's employment, the employee would be
6 required to either remove the abandoned line, if authorized by the
7 entity, or report the abandoned line to the entity for further action.
8 Within 90 calendar days of receiving the report, the entity would be
9 required to transmit a copy of the report to the BPU.

10 The bill provides that when an entity installs certain new lines,
11 which lines are attached to a building or structure and owned by the
12 entity, the entity would be required to mark certain information on the
13 end of the line that is attached to the building or structure. This
14 information would include the initials of the entity's name,
15 abbreviation of the entity's name, corporate symbol, or other
16 distinguishing mark or code by which ownership may be readily and
17 definitely ascertained. The bill also provides that when an entity owns
18 or maintains an existing line that is attached to a building or structure,
19 which line was installed before the effective date of the bill and does
20 not contain the marking required under the bill, the entity would be
21 required to mark this information on the end of the line that is attached
22 to the building or structure after the entity discovers that the line does
23 not contain the markings.

24 Under the bill, an entity that fails to comply with the requirements
25 of the bill concerning the removal of abandoned lines or the marking
26 of lines may be subject to a fine after the BPU has submitted a written
27 notice of an alleged violation to the entity. Specifically, the bill
28 provides that if the entity fails to cure the alleged violation within 30
29 calendar days after receiving the notice, the BPU may impose a fine of
30 \$500 for each day in which the violation exists, beginning on the 31st
31 calendar day after the submission of the notice. The bill also sets forth
32 various factors that the BPU may consider when determining whether
33 to impose a fine, and if appropriate, the amount of the fine.