[Fifth Reprint]

ASSEMBLY, No. 1100



STATE OF NEW JERSEY

220th LEGISLATURE



PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

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District 36 (Bergen and Passaic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

 As amended by the Senate on December 21, 2023.



An Act concerning the removal **3**and marking**3** of **3[**abandoned**]** certain**3** lines **3[**by certain entities**]3** and supplementing Title 48 of the Revised **3[**Statues**]** Statutes**3**.

 Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

 “Abandoned” means any **5[1**telecommunications or cable**1]5** line that **2**: (1) is not terminated at both ends to equipment or to a customer’s premises; (2) is not maintained in a safe condition; **3[**or**]3** (3)**2** **3**is not intended for future use; or (4)**3** has not been in operation for a period of at least **1[**twelve**]** 24**1** consecutive months **1**, **2[**not including:**]** **3[**unless**]** and**3** the owner of a structure to which the line is attached has **3[**expressed interest to the entity in the future use of the line**]** submitted a request for removal of the line pursuant to section 3 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill)**3**. The term “abandoned” shall not include**2** any line that is overlashed **2[**; or any line that is connected to a residential or commercial building or structure, which line is located in an area in which the owner of the line acts as a provider of telecommunications or cable television service, and for which line a written request for removal has not been submitted pursuant to section 3 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill)**1]2**.

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

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

 **5[**“Copper telephone line” means any **3**above-ground**3** copper telephone line that has been retired by an incumbent local exchange telecommunications company **3**in accordance with federal law, if applicable,**3** and **4[**is no longer in operation**]** has not been in operation for a period of at least 24 consecutive months**4**. **3**The term “copper telephone line” shall not include any line that is overlashed.**3]5**

**[**“Department” means the Department of Community Affairs.**]1**

 “Entity” means a person, municipality, utility, or corporation having ownership of a line **5[1**or copper telephone line**1]5** in this State, including ownership acquired by sale or corporate merger.

 “Line” means an above-ground cable or wire attached to a pole, building, or other structure, used **1**or useful**1** for the provision of any telecommunications **1**service**1** or **1[**utility**]** cable television**1** service, **5**including, but not limited to, a copper telephone line,**5** and shall include any equipment or facility associated with that line attached to that pole, building, or other structure.

 **4**“Maintained in a safe condition” means any time in which the state of a line is in compliance with any applicable rules and regulations adopted by the board concerning plant and facility construction, which regulations shall include N.J.A.C.14:5-2.1, N.J.A.C.14:10-1A.12, and N.J.A.C.14:18-2.1, as applicable, as well as any other successor regulations.**4**

 “Telecommunications service” means the **1[**electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points**]** same as the term is defined in section 3 of P.L.1972, c.186 (C.48:5A-3)**1**.

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

 2. a. Notwithstanding any law, rule, regulation, or order to the contrary, and in accordance with federal law, **1**if applicable,**1** an entity owning a line that is abandoned **1[**or permanently out of service**]1** shall **3**either correct the condition causing the line to be abandoned or**3** remove that line from all points of attachment **2**, **3[**except as otherwise**]** as**3** provided under subsection d. of section 3 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill)**2**.

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

 c. (1)**1** Following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and in accordance with federal law, **1**if applicable,**1** an entity that installs **1[**, or otherwise maintains,**]1** a **1**new**1** line **1[**over which**]** , which line is attached to a building or structure and owned by**1** the entity **1[**has ownership**]** ,**1** shall mark **1[**both ends of**]** the end of**1** the line **1**attached to the building or structure**1** with 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.

 **1**(2) When an entity owns or maintains a line that is attached to a building or structure, which line was installed before the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), and the entity discovers that the line does not contain the markings specified in paragraph (1) of this subsection, the entity shall mark the end of the line attached to the building or structure with 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. Nothing in this subsection shall be construed to require an entity to affirmatively search for any unmarked lines.**1**

 3. a. **1[**Twelve**]** Beginning 12**1** months after the effective date of P.L. , c. (C.      ) (pending before the Legislature as this bill), in accordance with federal law **1**, if applicable,**1** and **1**to the extent permitted under**1** any applicable pole attachment agreement, the owner of a pole, building, or other structure to which a suspected abandoned line is attached **1[**,**]1** may send a **2[**written**]2** request **1**, in accordance with subsection c. of this section,**1** to the entity owning that line to request removal if the line is found to be abandoned by the entity. **2[1**Within five business days after receiving the written request, the entity shall transmit a copy of the written request to the board.**1]2**

 b. **1[**A pole attachment agreement or any other applicable agreement established or renewed after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) may include, in accordance with federal law, a provision requiring an entity to submit a security deposit, in an amount determined by the board or department, to the owner of a pole, building, or other structure to which the entity attaches a line, which shall be refunded to the entity once the line is removed.**]** Beginning 12 months after the effective date of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), any person, municipality, utility, or corporation in the State may submit a **2[**written**]2** request, in accordance with subsection c. of this section, to the board for the removal of any suspected abandoned line, provided that the line is found to be abandoned by the entity owning the line. Within five business days after receiving the **2[**written**]2** request, the board shall transmit a written copy of the request to the entity that owns the line. **2**Nothing in this section shall prevent or prohibit a person, municipality, utility, or corporation from directly notifying an entity of a suspected abandoned line.**2**

 c. (1) Within 10 months after the effective date of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), the board shall prescribe the form and manner in which the owner of a pole, building, or structure may submit a **2[**written**]2** request, pursuant to subsection a. of this section, for the removal of a suspected abandoned line. **5**In addition to any other information that the board deems necessary, the form shall require the requestor to provide the pole number, address, or latitude and longitude of the associated pole, and a photograph of the abandoned line.**5** At a minimum, the board shall allow these requests to be submitted through the official Internet website of the entity.

 (2) Within 10 months after the effective date of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), the board shall prescribe the form and manner in which a person, municipality, utility, or corporation may submit a **2[**written**]2** request, pursuant to subsection b. of this section, for the removal of a suspected abandoned line. **5**In addition to any other information that the board deems necessary, the form shall require the requestor to provide the pole number, address, or latitude and longitude of the associated pole, and a photograph of the abandoned line, if available.**5** At a minimum, the board shall allow these requests to be submitted through the official Internet website of the board.

 (3) Within 11 months after the effective date of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), the official Internet website of the board and each entity owning one or more lines in the State shall provide instructions, in a clear and conspicuous manner, concerning the submission of the **2[**written**]2** requests to remove suspected abandoned lines **4**and the rights of customers under P.L.    , c.    (C.        ) (pending before the Legislature as this bill)**4** .

 d. Within 30 calendar days after the date on which an entity **2[**received**]** receives**2** a **2[**written**]2** request **2**to remove a suspected abandoned line,**2** submitted pursuant to **2[**subsection a. or b. of**]2** this section, the entity shall **3**investigate and determine whether the line is abandoned. If the line is deemed to be abandoned, within 30 calendar days after the date of such determination, the entity shall either correct the condition causing the line to be abandoned or**3** **2**remove the line **3[**, provided that the line is found to be abandoned by the entity**]3**.

 e. Within 90 calendar days after the effective date of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), and every 90 calendar days thereafter, the entity shall**2** submit a written report to the board, which report shall include **2**a description of all **3**notifications,**3** complaints **3**,**3** and requests received by the entity **3[**during the previous 90-day period**]3** **5**, including all reports and notifications received pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill),**5** concerning a suspected abandoned line **3**since the date on which the entity submitted its most recent report pursuant to this subsection**3**. For each **3**notification,**3** complaint **3**,**3** or request, the report shall include**2** :

 (1) **2[**an assessment of whether the line is abandoned;

 (2) a determination of whether the line contains the markings required under subsection c. of section 2 of the P.L.    , c.    (C.        ) (pending before the Legislature as this bill);

 (3)**]** the date on which the entity received the **3**notification,**3** complaint **3**,**3** or request;

 (2) the manner in which the **3**notification,**3** complaint **3**,**3** or request was received;

 (3) **3[**the date on which the entity resolved the complaint or request, if resolved;

 (4)**]3** the basis of the entity’s determination of whether the line is abandoned;

 **3[**(5)**2]** (4)**3** a description of all actions undertaken by the entity with respect to the line, including any actions to remove **2**, overlash,**2** or mark the line **3**, and the dates on which such actions were taken**3**; and

 **2[**(4)**]** **3[**(6)**2]** (5)**3** any other information that may be required by the board.**1**

 **3**f. Beginning 12 months after the effective date **4**of**4** P.L.    , c.    (C.        ) (pending before the Legislature as this bill), and every 12 months thereafter, each entity shall provide written notice to each customer of the entity, which notice shall inform customer **4**, in clear and conspicuous language, that the rights**4** of the **4[**provisions of**]** customer under**4** P.L.    , c.    (C.        ) (pending before the Legislature as this bill) **4[**and explain the processes through which the customer may submit a request for removal of a suspected abandoned line**]** can be found on the entity’s official Internet website**4**. The written notice shall be provided in a form and manner **4[**prescribed**]** approved**4** by the board, except that the notice shall be provided to each customer using the same method as the entity provides a bill to the customer **4**and in the same language as the bill is provided to the customer**4** , and the notice **4[**shall be made available in both English and Spanish**]** may be included as a part of the customer’s bill or as an additional notice to the customer**4**.**3**

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

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

 c. If within 30 calendar days of receiving the notice, the entity fails to cure the alleged violation or fails to demonstrate that the entity has not violated the requirements of section 2 **2**or 3**2** of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), the board may impose a **4**maximum aggregate**4** fine of **4[**$100**]** **5[**$1,000**4]** $500**5** for each day in which the violation exists, beginning on the 31st calendar day after the submission of the written notice. In determining whether to impose a fine **2**and, if appropriate, in determining the amount of the fine**2** , the board may consider the following factors:

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

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

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

 (4) any other considerations that the board may deem appropriate.**1**

 **5[1**5. a Notwithstanding any law, rule, regulation, or order to the contrary, **3[**and**]** but**3** in accordance with federal law, if applicable, an entity owning one or more copper telephone lines in this State shall remove each copper telephone line from all points of attachment, as provided in subsection b. of this section.

 b. **3**(1)**3** Within 12 months after the effective date of **3[**the**]3** P.L.    , c.    (C.        ) (pending before the Legislature as this bill), an entity owning one or more copper telephone lines in the State shall submit a written plan to the board **4**, as specified in paragraph (3) of this subsection,**4** for the removal of each copper telephone line **3**owned by the entity, as of the effective date of P.L.    , c.    (C.          ) (pending before the Legislature as this bill)**3** . In addition to any other requirements that the board may deem necessary, the entity shall remove all **3**such**3** copper telephone lines owned by the entity within 10 years following the submission of the report, except that no less than 10 percent of the copper telephone lines shall be removed during each year of this period.

 **3**(2) **4[**Beginning**]** Within**4** three years after the **4[**effective date of P.L.    , c.    (C.        ) (pending before the Legislature as this bill)**]** submission of the written plan required under paragraph (1) of this subsection**4** , and every three years thereafter, an entity owning one or more copper telephone lines in the State shall submit a written plan to the board **4**, as specified in paragraph (3) of this subsection,**4** for the removal of any copper telephone line discovered by the entity after the date on which the entity last submitted a written plan to the board pursuant to this subsection. In addition to any other requirements that the board may deem necessary, the entity shall remove all such copper telephone lines owned by the entity within 10 years following the submission of the report, except that no less than 10 percent of the copper telephone lines shall be removed during each year of this period.**3**

 **4**(3) Within six months after the effective date of P.L.    , c.    (C.        ) (pending before the Legislature as this bill), the board shall specify the information that each entity shall include in the written plans submitted pursuant to this subsection, as well as the form and manner in which each entity shall submit the written plans. Thereafter, the board may update, as necessary, the information that shall be included in the written plans and the form and manner in which the written plans shall be submitted.**4**

 c. If an entity fails to comply with any requirements of this section, the board may subject the entity to a fine, **3**after notice, hearing, and opportunity is provided to the entity for corrective or remedial action,**3** in such amounts as the board deems appropriate **3**, not to exceed a maximum aggregate fine of $1,000 per day**3**.**1]5**

 **5[2**6.**]** 5.**5** **3**During the course of the employee’s employment, each employee of an entity **5**, or subcontractor of an entity,**5** who is responsible for installing lines or **4[**providing**]** responding to**4** service calls **4[**or in-person technical assistance**]4** shall have an affirmative duty to **4[**investigate**]** report**4** any line **4[**owned by the entity to determine whether the line is**]** that the employee 5reasonably believes to be under the ownership of the employer, or in the case of the employee of a subcontractor, under the ownership of the entity for whom the subcontractor is engaged in work, and that the employee**5** reasonably suspects to be**4** abandoned **5[4**and**]** ,**5** which line is attached to a pole or structure **5[**in**]5** which the employee encounters during the normal course of installing lines or responding to service calls**4**.**3** If **3[**an**]** the**3** employee of an entity **4**who is responsible for installing lines or responding to service calls**4** discovers an abandoned line during the **4**normal**4** course of the employee’s **4[**employment**]** work**4**, the employee shall have an affirmative duty to **3**either remove the abandoned line, if authorized by the entity, or**3** report the abandoned line to the entity **3**for further action**3**. **5[**Within **3[**five business**]** 90 calendar**3** days of receiving the report, the entity shall transmit a copy of the report to the board.**2]5**

 **5[2**7.**]** 6.**5** The board may promulgate rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of P.L.    , c.    (C.        ) (pending before the Legislature as this bill) for entities under its jurisdiction, as applicable. The board may be assisted, as appropriate, by other participating agencies, departments, boards, and authorities, including the Office of Information Technology, in the promulgation of such rules and regulations as the board deems necessary.**2**

 **1[**5.**] 2[**6.**1]** **5[**8.**2]** 7.**5** This act shall take effect immediately, but shall remain inoperative for 90 days from the date of enactment.