

House Bill 244 (AS PASSED HOUSE AND SENATE)

By: Representatives Stephens of the 164th, Harrell of the 106th, Smyre of the 135th, Parsons of the 44th, Hatchett of the 150th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia
2 Annotated, relating to corporate purposes and powers of electric membership corporations,
3 so as to require electric membership corporations to comply with certain requirements in
4 determining the rates, fees, terms, conditions, and specifications for attachments to utility
5 poles by communications service providers; to provide for certain rates, fees, terms,
6 conditions, and specifications for such attachments to be determined by the Public Service
7 Commission; to provide for the commission to promulgate certain rules and regulations; to
8 provide for definitions; to provide for a short title; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Georgia Broadband Opportunity Act."

13 **SECTION 2.**

14 Part 2 of Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated,
15 relating to corporate purposes and powers of electric membership corporations, is amended
16 by repealing in its entirety Code Section 46-3-200.4, relating to rates, terms, and conditions
17 for pole attachments between communications service providers and electric membership
18 corporations and their broadband affiliates, and enacting a new Code Section 46-3-200.4 to
19 read as follows:

20 "46-3-200.4.

21 (a) As used in this Code section, the term:

22 (1) 'Attachment' means the connection or fastening of a wire or cable to a utility pole.

23 (2) 'Broadband services' shall have the same meaning as provided for the term

24 'broadband service' in Code Section 46-5-221.

25 (3) 'Communications service provider' means a provider of cable service as defined in
26 47 U.S.C. Section 522(6), telecommunications service as defined in 47 U.S.C.
27 Section 153(53), or information service as defined in 47 U.S.C. Section 153(24), as each
28 such term existed on January 1, 2020.

29 (4) 'Utility pole' means a pole or similar structure that is used in whole or in part for
30 electric distribution by an electric membership corporation or an affiliate thereof.

31 (b) In order to promote the deployment of broadband services in this state, and except as
32 required by the Tennessee Valley Authority for its distributors in this state, on and after
33 July 1, 2021, the rates, fees, terms, conditions, and specifications in any pole attachment
34 agreement entered into by a communications service provider and an electric membership
35 corporation shall be as determined by the commission, except as provided in subsection (e)
36 of this Code section. Such determination shall be made after consideration of what is just,
37 reasonable, nondiscriminatory, and commercially reasonable. The commission shall by
38 rules and regulations prescribe the process for making such a determination providing all
39 interested parties the opportunity to be heard and to present evidence. On or before
40 January 1, 2021, the commission shall publish the pole attachment rates, fees, terms,
41 conditions, and specifications.

42 (c) The commission shall have jurisdiction over all electric membership corporations to
43 enforce compliance within the provisions of this Code section. The commission shall
44 provide for an expedited adjudication of any complaint as to a failure to comply with this
45 Code section and may engage an administrative law judge for purposes of such
46 adjudication.

47 (d) Notwithstanding the provisions of subsection (b) of this Code section, any existing
48 agreement between a communications service provider and an electric membership
49 corporation shall remain in effect until the date of its natural expiration or lawful
50 termination.

51 (e) Any electric membership corporation and communications service provider may enter
52 into a mutual agreement as to the rates, fees, terms, conditions, and specifications for
53 attachments to utility poles by communications service providers that differ from those
54 provided for in subsection (b) of this Code section."

55 **SECTION 3.**

56 All laws and parts of laws in conflict with this Act are repealed.