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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

SECTION 2.

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

46-3-200.4.
(a) As used in this Code section, the term:
(1) 'Attachment' means the connection or fastening of a wire or cable to a utility pole.
(2) 'Broadband services' shall have the same meaning as provided for the term 'broadband service' in Code Section 46-5-221.
(3) ‘Communications service provider’ means a provider of cable service as defined in 47 U.S.C. Section 522(6), telecommunications service as defined in 47 U.S.C. Section 153(53), or information service as defined in 47 U.S.C. Section 153(24), as each such term existed on January 1, 2020.

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

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

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

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

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

SECTION 3.

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