STATE OF NEW YORK

7110

2025-2026 Regular Sessions

IN ASSEMBLY

March 20, 2025

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the transportation corporations law and the public service law, in relation to authorizing broadband franchises in cities with a population of one million or more

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 27 of the transportation corporations law, as amended by chapter 840 of the laws of 1977, is amended to read as follows:

§ 27. Construction of lines. **1.** Any such corporation may erect, construct and maintain the necessary fixtures for its lines upon, over or under any of the public roads, streets and highways; and through, across or under any of the waters within the limits of this state, and may erect, construct and maintain its necessary stations, plants, equipment or lines upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same. If any such corporation can not agree with such owner or owners upon the compensation to be paid therefor, such compensation shall be ascertained in the manner provided in the eminent domain procedure law. Any such corporation is authorized, from time to time, to construct and lay lines of electrical conductors under ground in any city, village or town within the limits of this state, subject to all the provisions of law in reference to such companies not inconsistent with this section; provided that such corporation shall, before laying any such line in any city, village or town of this state, first obtain from the common council of cities, or other body having like jurisdiction therein, the trustees of villages, or the town superintendents of towns, permission to use the streets within such city, village or town for the purposes herein set forth. Nothing in this section shall limit, alter, or affect the provisions or powers relating or granted to telegraph corporations here-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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tofore created by special act of the legislature of this state, except in so far as to confer on any such corporation the right to lay electrical conductors under ground.

2. (a) Notwithstanding anything to the contrary in this section, compensation to cities with a population of one million or more for use and occupancy of public rights-of-way by lines of any such corporation (whether of electrical conductors or telecommunications lines which are not conductors, such as fiber optic lines) heretofore or hereafter located within such cities shall equal the amount set forth in subdivision three of section ninety-nine-a of the public service law, except that with respect to any such city and corporation that enters into a franchise agreement in accordance with the terms of such city's charter regarding franchise agreements such compensation shall be as provided in such franchise agreement during the term of such franchise agreement.

(b) To the extent that any entity holds rights preexisting the effective date of paragraph (a) of this subdivision with respect to the occupancy of public rights-of-way for certain lines of electrical conductors, and to the extent such preexisting rights would bar the application of paragraph (a) of this subdivision to such lines, then paragraph (a) of this subdivision shall not apply to those lines to which such bar would be applicable.

§ 2. The public service law is amended by adding a new section 99-a to read as follows:

§ 99-a. Franchises in cities with a population of one million or more. 1. (a) The owner of communications lines located within the public rights-of-way in any city with a population of one million or more that are used for the provision of information services shall pay to such city the compensation amount, except that with respect to any such city and owner that have entered into an unexpired franchise agreement or revocable consent agreement (whichever may be applicable under such city's charter) for the use of public rights-of-way to provide information services in accordance with the terms of such city's charter regarding such franchise agreements or revocable consent agreements such compensation shall, for the term of such franchise agreement or revocable consent agreement, be as provided in such franchise agreement or revocable consent agreement.

(b) Notwithstanding paragraph (a) of this subdivision, to the extent that with respect to a communications line the owner has paid compensation to the city in accordance with subdivision two of this section with respect to a particular period, the amount of such payment shall constitute a credit against the payment due with respect to that period under this subdivision.

2. (a) The owner of communications lines located within the public rights-of-way in any city with a population of one million or more that are used for the provision of telecommunications services shall pay to such city the compensation amount, except that with respect to any such city and owner that have entered into an unexpired franchise agreement or revocable consent agreement (whichever may be applicable under such city's charter) for the use of public rights-of-way to provide telecommunications services in accordance with the terms of such city's charter regarding such franchise agreements or revocable consent agreements such compensation shall be as provided in such franchise agreement or revocable consent agreement.

(b) Notwithstanding paragraph (a) of this subdivision, to the extent that with respect to a communications line the owner has paid compensation to the city in accordance with subdivision one of this section

with respect to a particular period, the amount of such payment shall constitute a credit against the payment due with respect to that period under this subdivision.

3. (a) The compensation amount applicable to each communication line occupying public rights-of-way for each full calendar year of such occupation shall be calculated by multiplying the number of linear feet such line occupies in the public rights-of-way by the per foot fee. The per foot fee with respect to communications lines within any county shall be calculated by dividing the franchise fee paid by the primary cable franchisee in such county to the local franchising authority during calendar year two thousand twelve by the number of linear feet which occupied the public rights-of-way within such county during calendar year two thousand twelve and which were used by such primary cable franchisee for the provision of cable television service. The primary cable franchisee in a county is the entity holding a franchise from the applicable local franchising authority authorizing the provision of cable television service within such county; provided that to the extent that there is more than one such entity in a county then the primary cable franchisee for such county shall be the entity that paid the highest total amount of franchise fees applicable to its cable television service within such county during calendar year two thousand twelve.

(b) Notwithstanding paragraph (a) of this subdivision, with respect to any entity which holds a cable television franchise, the amount of franchise fees paid by such entity with respect to those lines within its applicable franchise area which lines are used for the provision of cable television service shall constitute a credit against the total compensation amount payable with respect to such lines, and further that in no event shall the total compensation amount required to be paid by any entity that holds a cable television franchise agreement exceed the maximum amount, with respect to lines which are used for the provision of cable television service, permitted to be charged under federal law.

4. Cities with a population of one million or more are hereby authorized, to adopt, to the extent not inconsistent with state law, with respect to telecommunications services, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers, as a delegee of the authority described in title 47, section 253(b) of the United States Code or any successor provision thereto. Such requirements may be adopted by local law or rule or pursuant to contracts or agreement, to the extent consistent with the applicable city charter.

5. For the purposes of this section, "communications lines" shall mean cable, wire, fiber or other closed path transmission medium that may be used in lieu of cable, wire or fiber for the same purposes, and related equipment and facilities used for the provision of one or more of the following services: telecommunications services, information services and cable television services (each of which is defined for purposes of this section as it is defined in title 47 of the United States Code).

6. Any fee or compensation for use or occupancy of communications lines within the public rights-of-way under a franchise agreement with a city pursuant to this section, shall not be passed through in whole or in part as a fee, charge, increased service cost, or by any other means to any consumers residing outside of such city.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,

impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.