

7469

I N S E N A T E

April 14, 2010

Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to requiring a safety and reliability inspection of all telephone poles used by telephone corporations providing telephone service to more than one million subscribers and the replacement or removal of deficient poles

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature hereby declares that  
2 unsafe, inadequate or unreliable telephone poles are a danger to the  
3 general public and to telecommunications workers; that such telephone  
4 poles impair the effective delivery of telecommunications services; and  
5 that the public interest requires increased oversight of the safety and  
6 reliability of jurisdictional telecommunications services carried over  
7 or by above ground telephone lines, as such are defined in article 1 of  
8 the public service law; and that the public interest requires a set of  
9 minimum fines to ensure compliance with this statute by each telephone  
10 corporation serving over one million subscribers.

11 S 2. The public service law is amended by adding a new section 98-a to  
12 read as follows:

13 S 98-A. SAFETY AND RELIABILITY INSPECTION. 1. THE PUBLIC SERVICE  
14 COMMISSION SHALL, WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS  
15 SECTION, REQUIRE TELEPHONE CORPORATIONS PROVIDING TELEPHONE SERVICE TO  
16 MORE THAN ONE MILLION SUBSCRIBERS, TO CONDUCT A STUDY OF THE SAFETY AND  
17 RELIABILITY OF ALL TELEPHONE POLES USED BY SUCH CORPORATIONS TO PROVIDE  
18 TELEPHONE SERVICE WITHIN THE STATE OF NEW YORK, AND TO REPORT UPON THE  
19 FOLLOWING FACTORS:

20 (A) THE TOTAL NUMBER OF TELEPHONE POLES PER COUNTY;

21 (B) THE NUMBER OF TELEPHONE POLES WITHIN EACH COUNTY THAT ARE SPLIT OR  
22 SHATTERED FOR MORE THAN FIVE PERCENT OF THE LENGTH OF SUCH POLES;

23 (C) THE NUMBER OF TELEPHONE POLES PER COUNTY THAT ARE SEVERED OR  
24 PARTIALLY SEVERED FROM THEIR BASE;

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

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1 (D) THE NUMBER OF TELEPHONE POLES PER COUNTY THAT ARE ATTACHED DIRECT-  
2 LY TO OTHER TELEPHONE POLES ("STRAPPED") BY MEANS OTHER THAN THE UTILITY  
3 LINES CONNECTING SUCH POLES;

4 (E) THE NUMBER OF STRAPPED POLES, OF WHICH EITHER OR BOTH POLES ARE  
5 SPLIT OR SHATTERED FOR MORE THAN FIVE PERCENT OF THE LENGTH OF SUCH  
6 POLES;

7 (F) ANY POLES THAT NO LONGER COMPLY WITH ANSI SAFETY STANDARD 05.1;  
8 AND

9 (G) ANY TELEPHONE POLES FROM WHICH ALL ELECTRICAL, TELEPHONE AND CABLE  
10 EQUIPMENT OR ELECTRICAL, TELEPHONE AND CABLE LINES HAVE BEEN PREVIOUSLY  
11 REMOVED FROM THE POLES AND TO WHICH NO NEW TELEPHONE, ELECTRICAL OR  
12 CABLE PLANT AND EQUIPMENT HAS BEEN ATTACHED FOR AT LEAST THIRTY DAYS.

13 2. TELEPHONE POLES IDENTIFIED IN SUBDIVISIONS (B), (C), (D), (E), (F)  
14 AND (G) OF SUBDIVISION ONE OF THIS SECTION SHALL BE PRESUMED TO BE NO  
15 LONGER SAFE, ADEQUATE OR RELIABLE FOR TELECOMMUNICATIONS SERVICE AND AN  
16 ENDANGERMENT TO THE GENERAL PUBLIC AND TELECOMMUNICATIONS WORKERS, AND  
17 SHALL BE SUBJECT TO SUCH STANDARDS FOR REPLACEMENT OF UNSAFE POLES, OR  
18 FINES, OR BOTH, AS MAY BE REQUIRED BY THIS SECTION.

19 3. THE TELEPHONE POLE SAFETY AND RELIABILITY STUDY REQUIRED BY THIS  
20 SECTION SHALL BE COMPLETED BY EACH TELEPHONE CORPORATION SERVING MORE  
21 THAN ONE MILLION SUBSCRIBERS WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF  
22 THIS SECTION. THE TELEPHONE POLE SAFETY AND RELIABILITY STUDY REQUIRED  
23 BY THIS SECTION SHALL CONTAIN SUCH TELEPHONE CORPORATION'S PLAN (THE  
24 "CORRECTIVE PLAN") FOR REPLACING, WITHIN ONE HUNDRED TWENTY DAYS OF THE  
25 ISSUANCE OF SUCH REPORT (THE CORRECTIVE PLAN "COMPLETION DATE"), ALL  
26 POLES SPLIT OR SHATTERED FOR MORE THAN FIVE PERCENT OF THE LENGTH OF  
27 SUCH POLES, ALL POLES SEVERED OR PARTIALLY SEVERED FROM THEIR BASE, ALL  
28 POLES THAT ARE STRAPPED DIRECTLY TO OTHER TELEPHONE POLES, ALL POLES  
29 FROM WHICH ALL ELECTRICAL, TELEPHONE AND CABLE EQUIPMENT OR ELECTRICAL,  
30 TELEPHONE AND CABLE LINES HAVE BEEN PREVIOUSLY REMOVED FROM THE POLES  
31 AND TO WHICH NO NEW TELEPHONE, ELECTRICAL OR CABLE PLANT AND EQUIPMENT  
32 HAS BEEN ATTACHED FOR AT LEAST THIRTY DAYS, (COLLECTIVELY, "UNSAFE"  
33 POLES).

34 4. UPON ITS COMPLETION, THE TELEPHONE POLE SAFETY AND RELIABILITY  
35 STUDY REQUIRED BY THIS SECTION SHALL BE SUBMITTED AS A REPORT, BY EACH  
36 TELEPHONE CORPORATION SERVING MORE THAN ONE MILLION SUBSCRIBERS TO THE  
37 PUBLIC SERVICE COMMISSION, THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE  
38 SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE CHAIR OF BOTH THE SENATE  
39 AND ASSEMBLY STANDING COMMITTEES ON CORPORATIONS, AUTHORITIES AND  
40 COMMISSIONS.

41 5. THE STUDY TO BE COMPLETED BY THE TELEPHONE CORPORATION SHALL INCOR-  
42 PORATE REPORTS OF POLES NON COMPLIANT WITH THE FACTORS IDENTIFIED IN  
43 SUBDIVISION ONE OF THIS SECTION PROVIDED TO THE TELEPHONE CORPORATION BY  
44 MEMBERS OF THE GENERAL PUBLIC, TELEPHONE CORPORATION UNIONS, AND LOCAL,  
45 MUNICIPAL, COUNTY, AND STATE GOVERNMENT AND AGENCIES.

46 6. ALL TELEPHONE POLES IDENTIFIED AS UNSAFE OR NONCOMPLIANT WITH ANSI  
47 SAFETY STANDARD 05.1, IN THE CORRECTIVE PLAN REQUIRED IN THE TELEPHONE  
48 POLE SAFETY AND RELIABILITY STUDY, SHALL BE REPLACED BY THE TELEPHONE  
49 CORPORATION OWNING SUCH POLES, WITHIN ONE HUNDRED TWENTY DAYS OF THE  
50 ISSUANCE OF SUCH REPORT.

51 7. REPLACEMENT OF THE POLES IDENTIFIED AS UNSAFE OR NONCOMPLIANT IN  
52 THE CORRECTIVE PLAN SHALL BE CONDUCTED BY PROPERLY TRAINED, EXPERIENCED  
53 AND EQUIPPED EMPLOYEES OF EACH TELEPHONE CORPORATION SERVING OVER ONE  
54 MILLION SUBSCRIBERS PREPARING THE STUDY.

55 8. A FINE OF ONE HUNDRED FIFTY DOLLARS PER MONTH PER UN-REPLACED POLE  
56 SHALL BE ASSESSED AGAINST EACH TELEPHONE POLE THAT A TELEPHONE CORPO-

1 RATION SERVING MORE THAN ONE MILLION SUBSCRIBERS HAS IDENTIFIED AS  
2 UNSAFE OR NONCOMPLIANT IN ITS STUDY, AND HAS NOT REPLACED WITHIN ONE  
3 HUNDRED TWENTY DAYS OF THE ISSUANCE OF THE TELEPHONE POLE SAFETY AND  
4 RELIABILITY REPORT.

5 S 3. The public service commission shall begin, within ninety days of  
6 the effective date of this act, a rulemaking proceeding to establish  
7 statewide safety and reliability standards for wooden telephone poles,  
8 and to establish penalties for the violation of such standards. Penal-  
9 ties for violation of established standards shall not be less than \$150  
10 per month per un-replaced pole. The rulemaking proceeding to establish  
11 statewide safety and reliability standards for wooden telephone poles  
12 and to establish penalties for the violation of such standards shall be  
13 completed within one year of its inception.

14 S 4. Severability. If any provision of this act, or the application  
15 thereof to any person or circumstance, shall be adjudged by any court of  
16 competent jurisdiction to be invalid or unconstitutional, such judgment  
17 shall not affect, impair or invalidate the remainder thereof, but shall  
18 be confined in its operation to the provision of this act, or in its  
19 application to the person or circumstance, directly involved in the  
20 controversy in which such judgment shall have been rendered.

21 S 5. This act shall take effect immediately.