

FIRST REGULAR SESSION

# HOUSE BILL NO. 656

## 99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RHOADS.

1391H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5102, 67.5103, and 67.5104, RSMo, and to enact in lieu thereof ten new sections relating to the uniform wireless communication infrastructure deployment act.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5102, 67.5103, and 67.5104, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5101, 67.5102, 67.5103, and 67.5104, to read as follows:

67.5090. Sections 67.5090 to ~~67.5103~~ **67.5104** shall be known and may be cited as the "Uniform Wireless Communications Infrastructure Deployment Act" and is intended to encourage and streamline the deployment of broadcast and broadband facilities and to help ensure that robust wireless radio-based communication services are available throughout Missouri.

67.5092. As used in sections 67.5090 to 67.5103, the following terms mean:

(1) "Accessory equipment", any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures;

(2) "Antenna", communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8           (3) "Applicant", any person engaged in the business of providing wireless  
9 communications services or the wireless communications infrastructure required for wireless  
10 communications services who submits an application;

11           (4) "Application", a request submitted by an applicant to an authority to construct a new  
12 wireless support structure, for the substantial modification of a wireless support structure, or for  
13 collocation of a wireless facility or replacement of a wireless facility on an existing structure;

14           (5) "Authority", each state, county, and municipal governing body, board, agency, office,  
15 or commission authorized by law and acting in its capacity to make legislative, quasi-judicial,  
16 or administrative decisions relative to zoning or building permit review of an application. The  
17 term shall not include state courts having jurisdiction over land use, planning, or zoning  
18 decisions made by an authority;

19           (6) "Base station", a station at a specific site authorized to communicate with mobile  
20 stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and  
21 other associated electronics, and includes a structure that currently supports or houses an  
22 antenna, a transceiver, coaxial cables, power supplies, or other associated equipment;

23           (7) "Building permit", a permit issued by an authority prior to commencement of work  
24 on the collocation of wireless facilities on an existing structure, the substantial modification of  
25 a wireless support structure, or the commencement of construction of any new wireless support  
26 structure, solely to ensure that the work to be performed by the applicant satisfies the applicable  
27 building code;

28           (8) "Collocation", the placement or installation of a new wireless facility on **or**  
29 **immediately adjacent to an existing** structure ~~[that already has an existing wireless facility]~~,  
30 including electrical transmission towers, water towers, buildings, **utility poles, existing**  
31 **structures** and other structures capable of structurally supporting the attachment of wireless  
32 facilities in compliance with applicable codes;

33           (9) "Electrical transmission tower", an electrical transmission structure used to support  
34 high voltage overhead power lines. The term shall not include any utility pole;

35           (10) "Equipment compound", an area surrounding or near a wireless support structure  
36 within which are located wireless facilities;

37           (11) "Existing structure", a structure that exists at the time a request to place wireless  
38 facilities on a structure is filed with an authority. The term includes any structure that is capable  
39 of supporting the attachment of wireless facilities in compliance with applicable building codes,  
40 National Electric Safety Codes, and recognized industry standards for structural safety, capacity,  
41 reliability, and engineering, including, but not limited to, towers, buildings, ~~[and]~~ water towers  
42 **and utility poles; [The term shall not include any utility pole;]**

43 (12) "Replacement", includes constructing a new wireless support structure of equal  
44 proportions and of equal height or such other height that would not constitute a substantial  
45 modification to an existing structure in order to support wireless facilities or to accommodate  
46 collocation and includes the associated removal of the preexisting wireless facilities or wireless  
47 support structure;

48 (13) **"Small wireless facility", a wireless facility with an antenna of no more than**  
49 **six cubic feet in volume and associated equipment with a cumulative volume no larger than**  
50 **28 cubic feet. An associated electric meter, concealment, telecom demarcation box,**  
51 **ground-based enclosure, battery backup power system, grounding equipment, power**  
52 **transfer switch, cutoff switch, cable, or conduit may be located outside the primary**  
53 **equipment enclosure and is not included in the calculation of the equipment volume.**  
54 **Volume is a measure of the exterior displacement, not the interior volume, of the enclosure.**  
55 **Any equipment that is concealed from public view within or behind an existing structure**  
56 **or concealment is not included in the volume calculations;**

57 (14) "Substantial modification", the mounting of a proposed wireless facility on a  
58 wireless support structure which, as applied to the structure as it was originally constructed:

59 (a) Increases the existing vertical height of the structure by:

60 a. More than ten percent; or

61 b. The height of one additional antenna array with separation from the nearest existing  
62 antenna not to exceed twenty feet, whichever is greater; ~~or~~

63 (b) Involves adding an appurtenance to the body of a wireless support structure that  
64 protrudes horizontally from the edge of the wireless support structure more than twenty feet or  
65 more than the width of the wireless support structure at the level of the appurtenance, whichever  
66 is greater (except where necessary to shelter the antenna from inclement weather or to connect  
67 the antenna to the tower via cable);

68 (c) Involves the installation of more than the standard number of new outdoor equipment  
69 cabinets for the technology involved, not to exceed four new equipment cabinets; or

70 (d) Increases the square footage of the existing equipment compound by more than one  
71 thousand two hundred fifty square feet;

72 ~~[(14)]~~ (15) "Utility", any person, corporation, county, municipality acting in its capacity  
73 as a utility, municipal utility board, or other entity, or department thereof or entity related thereto,  
74 providing retail or wholesale electric, natural gas, water, waste water, data, cable television, ~~or~~  
75 telecommunications, **wireless communications service**, or internet protocol-related services;

76 ~~[(15)]~~ (16) "Utility pole", a structure owned or operated by a utility that is designed  
77 specifically for and used to carry lines, cables, ~~or~~ wires, **or wireless facilities** for telephony,  
78 **wireless communications service**, cable television, or electricity, or to provide lighting;

79           ~~[(16)]~~ (17) "Water tower", a water storage tank, or a standpipe or an elevated tank  
80 situated on a support structure, originally constructed for use as a reservoir or facility to store or  
81 deliver water;

82           **(18) "Wireless communications infrastructure provider", a person or entity that**  
83 **installs or constructs facilities or structures used to provide wireless communications**  
84 **services;**

85           ~~[(17)]~~ (19) "Wireless communications service", includes the wireless facilities of all  
86 services licensed to use radio communications pursuant to Section 301 of the Communications  
87 Act of 1934, 47 U.S.C. Section 301, **and fixed or mobile communication transmission**  
88 **services including, but not limited to, data or voice transmissions provided using wireless**  
89 **facilities, including both one-way and two-way communications services;**

90           **(20) "Wireless communications service provider", a provider of wireless**  
91 **communications service;**

92           ~~[(18)]~~ (21) "Wireless facility", the set of equipment and network components, exclusive  
93 of the underlying wireless support structure, including, but not limited to, antennas, accessory  
94 equipment, transmitters, receivers, power supplies, cabling, **small wireless facilities**, and  
95 associated equipment necessary to provide wireless communications services;

96           ~~[(19)]~~ (22) "Wireless support structure", a structure, such as a monopole, tower,  
97 **electrical transmission tower, water tower, utility pole**, or building capable of supporting  
98 wireless facilities. ~~[This definition does not include utility poles.]~~

67.5094. In order to ensure uniformity across the state of Missouri with respect to the  
2 consideration of every application, an authority shall not:

3           (1) Require an applicant to submit information about, or evaluate an applicant's business  
4 decisions with respect to its designed service, customer demand for service, or quality of its  
5 service to or from a particular area or site;

6           (2) Evaluate an application based on the availability of other potential locations for the  
7 placement of wireless support structures or wireless facilities, including without limitation the  
8 option to collocate instead of construct a new wireless support structure or for substantial  
9 modifications of a support structure, or vice versa; provided, however, that solely with respect  
10 to an application for a new wireless support structure, an authority may require an applicant to  
11 state in such applicant's application that it conducted an analysis of available collocation  
12 opportunities on existing wireless towers within the same search ring defined by the applicant,  
13 solely for the purpose of confirming that an applicant undertook such an analysis. For  
14 collocation to any certified historic structure as defined in section 253.545, in addition to all  
15 other applicable time requirements, there shall be a thirty-day time period before approval of an

16 application. During such time period, an authority shall hold one or more public hearings on  
17 collocation to a certified historic structure;

18 (3) Dictate the type of wireless facilities, infrastructure or technology to be used by the  
19 applicant, including, but not limited to, requiring an applicant to construct a distributed antenna  
20 system in lieu of constructing a new wireless support structure;

21 (4) Require the removal of existing wireless support structures or wireless facilities,  
22 wherever located, as a condition for approval of an application;

23 (5) With respect to radio frequency emissions, impose environmental testing, sampling,  
24 or monitoring requirements or other compliance measures on wireless facilities that are  
25 categorically excluded under the Federal Communication Commission's rules for radio frequency  
26 emissions under 47 CFR 1.1307(b)(1) or other applicable federal law, as the same may be  
27 amended or supplemented;

28 (6) Establish or enforce regulations or procedures for RF signal strength or the adequacy  
29 of service quality;

30 (7) Establish or enforce regulations or procedures for environmental safety for any  
31 wireless communications facility that is inconsistent with or in excess of those required by  
32 **Office of Engineering and Technology (OET) Bulletin 65**, entitled Evaluating Compliance  
33 with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields, Edition  
34 97-01, released August, 1997, and Supplement A: Additional Information for Radio and  
35 Television Broadcast Stations;

36 (8) In conformance with 47 U.S.C. Section 332(c)(7)(b)(4), reject an application, in  
37 whole or in part, based on perceived or alleged environmental effects of radio frequency  
38 emissions;

39 (9) Impose any restrictions with respect to objects in navigable airspace that are greater  
40 than or in conflict with the restrictions imposed by the Federal Aviation Administration;

41 (10) Prohibit the placement of emergency power systems that comply with federal and  
42 state environmental requirements;

43 (11) Charge an application fee, consulting fee, or other fee associated with the  
44 submission, review, processing, and approval of an application that is not required for similar  
45 types of commercial development within the authority's jurisdiction. Fees imposed by an  
46 authority for or directly by a third-party entity providing review or technical consultation to the  
47 authority must be based on actual, direct, and reasonable administrative costs incurred for the  
48 review, processing, and approval of an application. Except when mutually agreeable to the  
49 applicant and the authority, total charges and fees shall not exceed five hundred dollars for a  
50 collocation application or one thousand five hundred dollars for an application for a new wireless  
51 support structure or for a substantial modification of a wireless support structure.

52 Notwithstanding the foregoing, in no event shall an authority or any third-party entity include  
53 within its charges any travel expenses incurred in a third-party's review of an application and in  
54 no event shall an applicant be required to pay or reimburse an authority for consultation or other  
55 third-party fees based on a contingency or result-based arrangement;

56 (12) Impose surety requirements, including bonds, escrow deposits, letters of credit, or  
57 any other type of financial surety, to ensure that abandoned or unused facilities can be removed  
58 unless the authority imposes similar requirements on other permits for other types of commercial  
59 development or land uses;

60 (13) Condition the approval of an application on the applicant's agreement to provide  
61 space on or near the wireless support structure for authority or local governmental services at less  
62 than the market rate for space or to provide other services via the structure or facilities at less  
63 than the market rate for such services;

64 (14) Limit the duration of the approval of an application;

65 (15) Discriminate or create a preference on the basis of the ownership, including  
66 ownership by the authority, of any property, structure, or tower when promulgating rules or  
67 procedures for siting wireless facilities or for evaluating applications;

68 (16) Impose any requirements or obligations regarding the presentation or appearance  
69 of facilities, including, but not limited to, those relating to the kind or type of materials used and  
70 those relating to arranging, screening, or landscaping of facilities if such regulations or  
71 obligations are unreasonable;

72 (17) Impose any requirements that an applicant purchase, subscribe to, use, or employ  
73 facilities, networks, or services owned, provided, or operated by an authority, in whole or in part,  
74 or by any entity in which an authority has a competitive, economic, financial, governance, or  
75 other interest;

76 (18) Condition the approval of an application on, or otherwise require, the applicant's  
77 agreement to indemnify or insure the authority in connection with the authority's exercise of its  
78 police power-based regulations; or

79 (19) Condition or require the approval of an application based on the applicant's  
80 agreement to permit any wireless facilities provided or operated, in whole or in part, by an  
81 authority or by any entity in which an authority has a competitive, economic, financial,  
82 governance, or other interest, to be placed at or collocated with the applicant's wireless support  
83 structure.

67.5096. 1. Authorities may continue to exercise zoning, land use, planning, and  
2 permitting authority within their territorial boundaries with regard to the siting of new wireless  
3 support structures, subject to the provisions of sections 67.5090 to ~~[67.5103]~~ **67.5014**, including  
4 without limitation section 67.5094, and subject to federal law.

5           2. Any applicant that proposes to construct a new wireless support structure within the  
6 jurisdiction of any authority, planning or otherwise, that has adopted planning and zoning  
7 regulations in accordance with sections 67.5090 to 67.5103 shall:

8           (1) Submit the necessary copies and attachments of the application to the appropriate  
9 authority. Each application shall include a copy of a lease, letter of authorization or other  
10 agreement from the property owner evidencing applicant's right to pursue the application; and

11           (2) Comply with applicable local ordinances concerning land use and the appropriate  
12 permitting processes.

13           3. Disclosure of records in the possession or custody of authority personnel, including  
14 but not limited to documents and electronic data, shall be subject to chapter 610.

15           4. The authority, within one hundred twenty calendar days of receiving an application  
16 to construct a new wireless support structure or within such additional time as may be mutually  
17 agreed to by an applicant and an authority, shall:

18           (1) Review the application in light of its conformity with applicable local zoning  
19 regulations. An application is deemed to be complete unless the authority notifies the applicant  
20 in writing, within thirty calendar days of submission of the application, of the specific  
21 deficiencies in the application which, if cured, would make the application complete. Upon  
22 receipt of a timely written notice that an application is deficient, an applicant may take thirty  
23 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures  
24 the deficiencies within thirty calendar days, the application shall be reviewed and processed  
25 within one hundred twenty calendar days from the initial date the application was received. If  
26 the applicant requires a period of time beyond thirty calendar days to cure the specific  
27 deficiencies, the one hundred twenty calendar days' deadline for review shall be extended by the  
28 same period of time;

29           (2) Make its final decision to approve or disapprove the application; and

30           (3) Advise the applicant in writing of its final decision.

31           5. If the authority fails to act on an application to construct a new wireless support  
32 structure within the one hundred twenty calendar days' review period specified under subsection  
33 4 of this section or within such additional time as may be mutually agreed to by an applicant and  
34 an authority, the application shall be deemed approved.

35           6. A party aggrieved by the final action of an authority, either by its affirmatively  
36 denying an application under the provisions of this section or by its inaction, may bring an action  
37 for review in any court of competent jurisdiction within this state.

67.5098. 1. Authorities may continue to exercise zoning, land use, planning, and  
2 permitting authority within their territorial boundaries with regard to applications for substantial

3 modifications of wireless support structures, subject to the provisions of sections 67.5090 to  
4 ~~[67.5103]~~ **67.5104**, including without limitation section 67.5094, and subject to federal law.

5       2. Any applicant that applies for a substantial modification of a wireless support structure  
6 within the jurisdiction of any authority, planning or otherwise, that has adopted planning and  
7 zoning regulations in accordance with sections 67.5090 to 67.5103 shall:

8       (1) Submit the necessary copies and attachments of the application to the appropriate  
9 authority. Each application shall include a copy of a lease, letter of authorization or other  
10 agreement from the property owner evidencing applicant's right to pursue the application; and

11       (2) Comply with applicable local ordinances concerning land use and the appropriate  
12 permitting processes.

13       3. Disclosure of records in the possession or custody of authority personnel, including  
14 but not limited to documents and electronic data, shall be subject to chapter 610.

15       4. The authority, within one hundred twenty calendar days of receiving an application  
16 for a substantial modification of wireless support structures, shall:

17       (1) Review the application in light of its conformity with applicable local zoning  
18 regulations. An application is deemed to be complete unless the authority notifies the applicant  
19 in writing, within thirty calendar days of submission of the application, of the specific  
20 deficiencies in the application which, if cured, would make the application complete. Upon  
21 receipt of a timely written notice that an application is deficient, an applicant may take thirty  
22 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures  
23 the deficiencies within thirty calendar days, the application shall be reviewed and processed  
24 within one hundred twenty calendar days from the initial date the application was received. If  
25 the applicant requires a period of time beyond thirty calendar days to cure the specific  
26 deficiencies, the one hundred twenty calendar days' deadline for review shall be extended by the  
27 same period of time;

28       (2) Make its final decision to approve or disapprove the application; and

29       (3) Advise the applicant in writing of its final decision.

30       5. If the authority fails to act on an application for a substantial modification within the  
31 one hundred twenty calendar days' review period specified under subsection 4 of this section, or  
32 within such additional time as may be mutually agreed to by an applicant and an authority, the  
33 application for a substantial modification shall be deemed approved.

34       6. A party aggrieved by the final action of an authority, either by its affirmatively  
35 denying an application under the provisions of this section or by its inaction, may bring an action  
36 for review in any court of competent jurisdiction within this state.

      67.5100. 1. Subject to the provisions of sections 67.5090 to ~~[67.5103]~~ **67.5104**,  
2 including section 67.5094, collocation applications and applications for replacement of wireless



3 facilities shall be reviewed for conformance with applicable building permit requirements,  
4 National Electric Safety Codes, and recognized industry standards for structural safety, capacity,  
5 reliability, and engineering, but shall not otherwise be subject to zoning or land use requirements,  
6 including design or placement requirements, or public hearing review.

7         2. The authority, within forty-five calendar days of receiving a collocation application  
8 or application for replacement of wireless facilities, shall:

9             (1) Review the collocation application or application to replace wireless facilities in light  
10 of its conformity with applicable building permit requirements and consistency with sections  
11 67.5090 to 67.5103. A collocation application or application to replace wireless facilities is  
12 deemed to be complete unless the authority notifies the applicant in writing, within fifteen  
13 calendar days of submission of the application, of the specific deficiencies in the application  
14 which, if cured, would make the application complete. Each collocation application or  
15 application to replace wireless facilities shall include a copy of a lease, letter of authorization or  
16 other agreement from the property owner evidencing applicant's right to pursue the application.  
17 Upon receipt of a timely written notice that a collocation application or application to replace  
18 wireless facilities is deficient, an applicant may take fifteen calendar days from receiving such  
19 notice to cure the specific deficiencies. If the applicant cures the deficiencies within fifteen  
20 calendar days, the application shall be reviewed and processed within forty-five calendar days  
21 from the initial date the application was received. If the applicant requires a period of time  
22 beyond fifteen calendar days to cure the specific deficiencies, the forty-five calendar days'  
23 deadline for review shall be extended by the same period of time;

24             (2) Make its final decision to approve or disapprove the collocation application or  
25 application for replacement of wireless facilities; and

26             (3) Advise the applicant in writing of its final decision.

27         3. If the authority fails to act on a collocation application or application to replace  
28 wireless facilities within the forty-five calendar days' review period specified in subsection 2 of  
29 this section, the application shall be deemed approved.

30         4. The provisions of sections 67.5090 to 67.5103 shall not:

31             (1) Authorize an authority, except when acting solely in its capacity as a utility, to  
32 mandate, require, or regulate the placement, modification, or collocation of any new wireless  
33 facility on new, existing, or replacement poles owned or operated by a utility;

34             (2) Expand the power of an authority to regulate any utility; or

35             (3) Restrict any utility's rights or authority, or negate any utility's agreement, regarding  
36 requested access to, or the rates and terms applicable to placement of any wireless facility on  
37 new, existing, or replacement poles, structures, or existing structures owned or operated by a  
38 utility.

39           5. A party aggrieved by the final action of an authority, either by its affirmatively  
40 denying an application under the provisions of this section or by its inaction, may bring an action  
41 for review in any court of competent jurisdiction within this state.

**67.5101. Notwithstanding any provision of sections 67.5090 to 67.5104, the following  
2 provisions shall apply to applications relating to small wireless facilities:**

3           **(1) An authority may not require an application for the following work on  
4 previously permitted small wireless facility collocations:**

5           **(a) routine maintenance; and**

6           **(b) the replacement of small wireless facilities with small wireless facilities that are  
7 substantially similar in size, weight and height and that have the same or less wind loading  
8 and structural loading; provided that, if applicable, an authority may regulate the time and  
9 manner in which an applicant may access the public right-of-way to perform such work;**

10          **(2) An authority shall process an application for the collocation of small wireless  
11 facilities on a nondiscriminatory basis, and an application may include up to 25 separate  
12 small wireless facilities;**

13          **(3) An authority shall authorize the collocation of a small wireless facility on a  
14 wireless support structure not located within the public right-of-way to the same extent the  
15 authority authorizes access to such wireless support structures for other commercial  
16 projects or uses, and may authorize the collocation even if the authority has not previously  
17 permitted such access;**

18          **(4) If an application for the collocation of small wireless facilities is denied, the  
19 authority shall document the basis for a denial, including the specific standards on which  
20 the denial was based, and send the documentation to the applicant on or before the day the  
21 authority denies an application. The applicant may cure the deficiencies identified by the  
22 authority and resubmit the application within thirty days of the denial. The authority shall  
23 approve or deny the revised application within thirty days;**

24          **(5) Once an application for the collocation of small wireless facilities is approved,  
25 the applicant may maintain the small wireless facility in the permitted location for at least  
26 ten years, which period shall be extended automatically for at least three five-year periods  
27 unless the applicant requests that the permit be terminated. During the initial and renewal  
28 periods, there shall be no requirement for the applicant to reapply to collocate in an  
29 approved location; and**

30          **(6) An authority may not institute a moratorium, whether directly through a  
31 written policy or indirectly through action or inaction, on:**

32          **(a) Filing, receiving, or processing applications for the collocation of small wireless  
33 facilities; or**

34           **(b) Issuing permits or approvals for the collocation of small wireless facilities.**

67.5102. In accordance with the policies of this state to further the deployment of  
2 wireless communications infrastructure:

3           (1) An authority may not institute any moratorium on the permitting, construction, or  
4 issuance of approval of new wireless support structures, substantial modifications of wireless  
5 support structures, or collocations if such moratorium exceeds six months in length and if the  
6 legislative act establishing it fails to state reasonable grounds and good cause for such  
7 moratorium. No such moratorium shall affect an already pending application;

8           (2) To encourage applicants to request construction of new wireless support structures  
9 on public lands and to increase local revenues:

10          (a) An authority may not charge a wireless service provider or wireless infrastructure  
11 provider any rental, license, or other fee to locate a wireless facility or wireless support structure  
12 on an authority's property in excess of the current market rates for rental or use of similarly  
13 situated property. If the applicant and the authority do not agree on the applicable market rate  
14 for any such public land and cannot agree on a process by which to derive the applicable market  
15 rate for any such public land, then the market rate will be determined by a state-certified general  
16 real estate appraiser licensed under chapter 339 mutually agreed upon by the parties at the  
17 applicant's cost. The appraisal process shall be concluded within ninety calendar days from the  
18 date the applicant first tenders its proposed lease rate to the authority. In the event either party  
19 is dissatisfied with the value determined by the appraiser, such party may bring an action for  
20 review in any court of competent jurisdiction. The court shall rule on any such petition for  
21 review in an expedited manner. Nothing in this paragraph shall bar an applicant and an authority  
22 from agreeing to reasonable, periodic reviews and adjustments of current market rates during the  
23 term of a lease or contract to use an authority's property; ~~and~~

24          (b) An authority may not offer a lease or contract to use public lands to locate a wireless  
25 support structure **or wireless facility** on an authority's property that is less than fifteen years in  
26 duration unless the applicant agrees to accept a lease or contract of less than fifteen years in  
27 duration;

28          (c) **An authority may not charge a wireless communications service provider or**  
29 **wireless communications infrastructure provider any fee, tax, or other charge, or require**  
30 **any other form of payment or compensation, to locate a wireless facility or wireless support**  
31 **structure on privately-owned property, or on a wireless support structure not owned by**  
32 **the authority; and**

33          (d) **Except as otherwise expressly provided in sections 67.5090 to 67.5104, and**  
34 **notwithstanding sections 67.1830 to 67.1846, no authority nor any other political**  
35 **subdivision shall demand or impose any fees, licenses, charges, payments, or assessments**

36 **from any applicant, nor shall any authority or any other political subdivision demand or**  
37 **impose any fees, licenses, charges, payments, or assessments on wireless communications**  
38 **service providers or wireless communications infrastructure providers for, or in any way**  
39 **relating to or arising from, the deployment, installation, operation, use, replacement,**  
40 **maintenance, or repair of wireless facilities.**

41 (3) Nothing in subdivision (2) of this section is intended to limit an authority's lawful  
42 exercise of zoning, land use, or planning and permitting authority with respect to applications  
43 for new wireless support structures on an authority's property under subsection 1 of section  
44 67.5096.

67.5103. Notwithstanding any provision of sections 67.5090 to ~~[67.5103]~~ **67.5104**,  
2 nothing herein shall provide any applicant the power of eminent domain or the right to compel  
3 any private or public property owner, the department of conservation, the department of natural  
4 resources, or the state highways and transportation commission to:

5 (1) Lease or sell property for the construction of a new wireless support structure; or

6 (2) Locate or cause the collocation or expansion of a wireless facility on any existing  
7 structure or wireless support structure.

67.5104. 1. As used in this section, "pole attachment" means an attachment by an  
2 attaching entity, including a video service provider, a telecommunications provider, **a wireless**  
3 **communications service provider, as defined in section 67.5092**, or other  
4 communications-related service provider to a pole owned or controlled by a municipal utility or  
5 municipality~~], but not a wireless antenna attachment or an attachment by a wireless~~  
6 ~~communications provider to a pole~~. As used in this section, "pole" means a utility pole which  
7 is owned or controlled by a municipal utility or municipality, but shall not include poles that are  
8 not associated with the transmission or distribution of electric power, communications,  
9 broadband, or video services **or with provided lighting**. A municipal utility or municipality  
10 may only deny an attaching entity access to the utility's poles on a nondiscriminatory basis if  
11 there is insufficient capacity or for reasons of safety and reliability and if the attaching entity will  
12 not resolve the issue. If a municipal utility or municipality does not find any capacity, safety, or  
13 reliability issues, such municipal utility or municipality shall issue the attaching entity a permit  
14 to attach to the municipal utility's or municipality's poles. Nothing in this section shall be  
15 construed to prohibit a municipal utility or municipality from requiring an attaching entity to  
16 enter into a pole attachment agreement consistent with this section; **except that, a wireless**  
17 **provider may collocate small wireless facilities on authority utility poles located within the**  
18 **public roads or rights-of-way without being required to apply for or enter into any**  
19 **individual license, franchise, or other agreement with the authority or any other entity, but**  
20 **subject to such nondiscriminatory, competitively neutral, and commercially reasonable**

21 terms and conditions as may be set forth in the building permit, which terms and  
22 conditions shall comply with this section and federal pole attachment requirements under  
23 47 U.S.C. Sec. 224 and implementing regulations. The annual recurring rate to collocate  
24 a small wireless facility on an authority utility pole shall not exceed the rate produced by  
25 applying the formula adopted by the Federal Communications Commission for  
26 telecommunications pole attachments under paragraph (2) of subsection (e) of 47 CFR  
27 1.1409.

28 2. (1) Notwithstanding sections 67.1830 to 67.1846, any pole attachment fees, terms, and  
29 conditions, including those related to the granting or denial of access, demanded by a municipal  
30 utility pole owner or controlling authority of a municipality shall be nondiscriminatory, just, and  
31 reasonable and shall not be subject to any required franchise authority or government entity  
32 permitting, except as provided in this section. A pole attachment rental fee shall be calculated  
33 on an annual, per-pole basis. Such rental fee shall be considered nondiscriminatory, just, and  
34 reasonable if it is agreed upon by the parties or, in the absence of such an agreement, based on  
35 cost but in no such case shall such fee so calculated be greater than the fee which would apply  
36 if it were calculated in accordance with the ~~[cable service]~~ **telecommunications pole**  
37 **attachment** rate formula **adopted by the Federal Communications Commission for**  
38 **telecommunications pole attachments under paragraph (2) of subsection (e) of 47 CFR**  
39 **1.1409** ~~[referenced in 47 U.S.C. Sec. 224(d) as applied by the Federal Communications~~  
40 ~~Commission]~~. In addition, a municipal pole owner may be authorized to exceed the rate of return  
41 cost components of the Federal Communications Commission formula referenced in this section  
42 if necessary to comply with Article X of the Missouri Constitution. In the event of a dispute  
43 between the parties, either party may bring an action for review in any court of competent  
44 jurisdiction. The court shall rule on any such petition for review in an expedited manner by  
45 moving the petition to the head of the docket consistent with ~~[subsection 2 of]~~ this section.  
46 Nothing shall deny any party the right to a hearing before the court.

47 (2) Make-ready work shall be addressed as follows:

48 (a) For authority utility poles that support aerial cables used for video  
49 communications or electric service, the parties shall comply with the process for  
50 make-ready work under 47 U.S.C. Sec. 224 and implementing regulations as they existed  
51 on January 1, 2017. The good faith estimate of the entity owning or controlling the pole  
52 for any make-ready work necessary to enable the pole to support the requested collocation  
53 shall include pole replacement, if necessary;

54 (b) For authority utility poles that do not support aerial cables used for video  
55 communications or electric service, the authority shall provide a good faith estimate for  
56 any make-ready work necessary to enable the pole to support the requested collocation,

57 **including pole replacement, if necessary, within sixty days after receipt of a complete**  
58 **application. Make-ready work, including any pole replacement, shall be completed within**  
59 **sixty days of written acceptance of the good faith estimate by the applicant; and**

60 **(c) Make-ready work shall not require more work than required to meet applicable**  
61 **codes or industry standards. Charges for make-ready work, including any pole**  
62 **replacement, shall not exceed actual costs or the amount charged to other communications**  
63 **service providers for similar work and shall not include third-party fees, charges, or**  
64 **expenses.**

65 3. Where no pole attachment agreement exists between an attaching entity and the  
66 municipal utility pole owner or controlling authority of a municipality, and a dispute between  
67 a municipal utility pole owner or controlling authority of a municipality and an attaching entity  
68 exclusively concerns the per-pole fee or any requirement or issue not directly related to pole  
69 attachments consistent with this section or both, then the attaching entity may proceed with its  
70 attachments during the pendency of the dispute under the agreed-upon terms and conditions at  
71 a rental rate of no more than as set forth in subsection 2 of this section. The attaching entity shall  
72 comply with applicable and reasonable engineering, safety, and reliability standards and shall  
73 hold the municipal pole owner or controlling authority of the municipality harmless for any  
74 liabilities or damages incurred that are caused by the attaching entity.

75 4. The provisions of this section shall not supersede existing pole attachment agreements  
76 established prior to August 28, 2014.

77 5. Nothing in this section shall be construed as conferring any jurisdiction or authority  
78 to the public service commission or any state agency to regulate either the fees, terms, or  
79 conditions for pole attachments, or for any state agency to assert any jurisdiction over  
80 attachments to poles regulated by 47 U.S.C. Sec. 224.

81 6. A municipal utility or municipality may, after reasonable written notice and an  
82 opportunity to cure, as provided in the applicable pole attachment agreement between a  
83 municipal utility or municipality and an attaching entity, revoke a pole attachment permit granted  
84 to an attaching entity and require removal of the attachment with or without fee refund for breach  
85 of the pole attachment agreement or permit until the breach is cured, but only in the event of a  
86 substantial breach of material terms and conditions of the pole attachment agreement or permit.  
87 A substantial breach by an attaching entity shall be limited to:

88 (1) A material violation of a material provision of the applicable pole attachment  
89 agreement or permit;

90 (2) An evasion or attempt to evade any material provision of the applicable pole  
91 attachment agreement or permit;

92           (3) A material misrepresentation of fact in the applicable pole attachment agreement or  
93 permit application;

94           (4) A failure to complete work by the date and in accordance with the terms specified  
95 in the applicable pole attachment agreement or permit, unless an extension is obtained or unless  
96 the failure to complete the work is due to reasons beyond the attaching entity's control; or

97           (5) A failure to correct, within the time and in accordance with the terms specified by  
98 the municipal utility or municipality in the applicable pole attachment agreement or permit, work  
99 by the attaching entity that does not conform to applicable national safety codes, industry  
100 construction standards, or local safety codes that are not more stringent than national safety  
101 codes, upon inspection and notification by the municipal utility or municipality of the faulty  
102 condition. If the time for correction is not specified in the applicable pole attachment agreement  
103 or permit, the time for correction shall be reasonable under the particular circumstances, and in  
104 no event less than thirty days.

105           7. Unless otherwise provided for in an applicable pole attachment agreement, in the  
106 event of an imminent threat to public health, life, or safety, a municipal utility or municipality  
107 shall, upon notice to the attaching entity, request the attaching entity rearrange, relocate, or  
108 remove a pole attachment from a pole or absent action from the attaching entity, have the  
109 authority to rearrange, relocate, or remove a pole attachment consistent with industry practices.  
110 The attaching entity shall be notified as soon as practicable upon the cessation of the threat to  
111 public health, life, or safety, or upon restoration of the attachment by the municipal utility or  
112 municipality.

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