



Safety Seminar

Pole Attachments Background

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Pole Attachments Act

47 U.S.C. § 224 of the Communications Act of 1934

- Discusses the FCC's authority to regulate the rates, terms and conditions for pole attachments; enforcement powers; promulgation of regulations
- Among other topics, also discusses nondiscriminatory access, modification/alteration of poles, ducts, conduits, or rights-of-way, and costs or rearranging or replacing attachments.



Pole Attachment Regulation at the FCC

- 2010 Pole Attachment Order
- 2011 Pole Attachment Order on Reconsideration
- 2013 D.C. Circuit Ruling
- 2015 Order on Reconsideration
- 2018 Third Report and Order
 - “One-Touch Make-Ready” (OTMR) regime



Who is Involved?

- Applicability
 - PUC and FCC jurisdictional entities
 - Railroads, cooperatives, and “any person owned by the Federal Government or any State” (e.g., municipalities) are excluded.
- Pole attachers: include CLECs, cable, wireless, Competitive Access Providers (CAPs)
- Pole owners: principally are jurisdictional telephone carriers (ILECs) and electric distribution companies (EDCs)

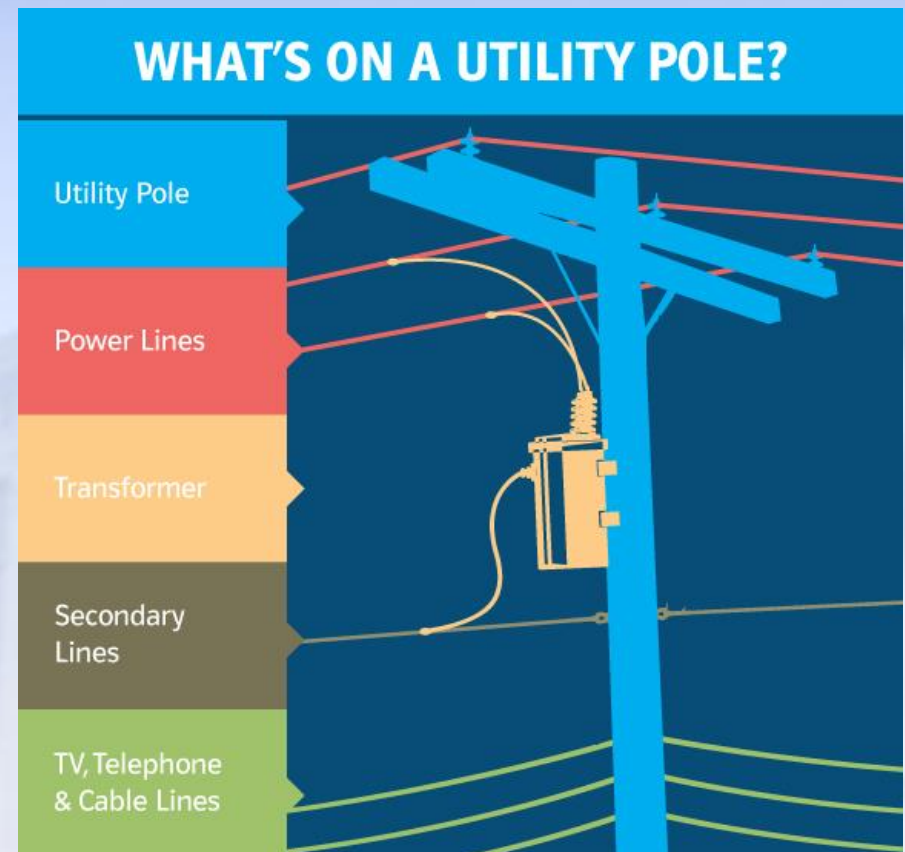


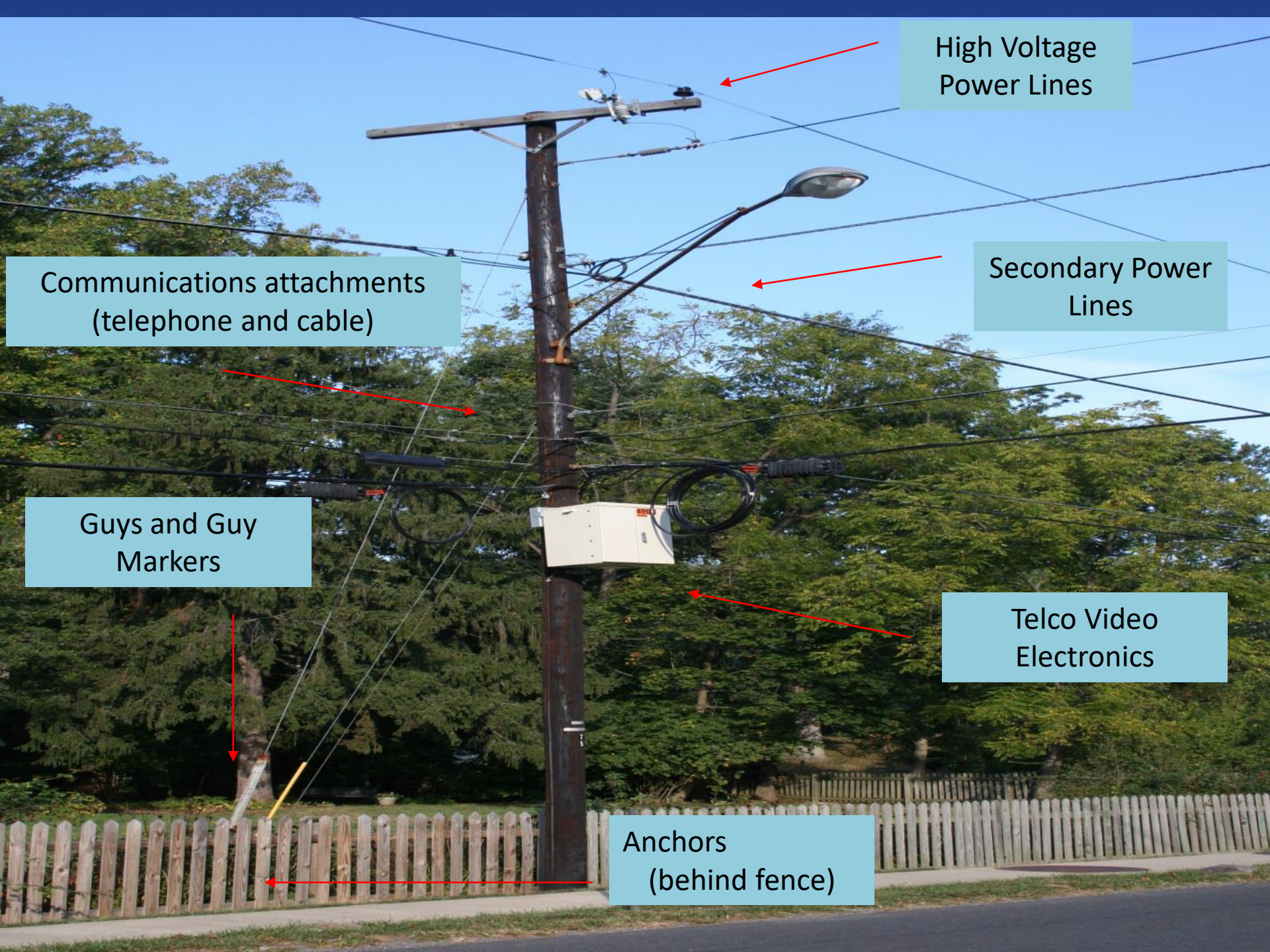
Utility Poles

Pole Attachment –
Any attachment by a
cable television system
or provider of telecom
service to:

- Poles
- Conduits
- Ducts
- Rights-of Way

owned or controlled by a
utility.





High Voltage
Power Lines

Communications attachments
(telephone and cable)

Secondary Power
Lines

Guys and Guy
Markers

Telco Video
Electronics

Anchors
(behind fence)



Broadband: A Coalescence of Interest

- Joint Initiatives:
 - Governor's Office of Broadband Initiative
 - PA House/Senate Broadband Caucus
 - Center for Rural PA
 - Federal Initiatives by FCC and Dept. of Agriculture



Principal Issue is Money



- Service in rural/remote areas is not financially viable without subsidies



PUC Broadband Initiatives: Pole Attachments

“The deployment of broadband internet speeds is as essential to all Pennsylvanians, especially those in rural areas, as was electricity in the 1930s. Access to the Internet is critical for education, healthcare and economic opportunity. Providing a dispute forum for pole attachments at the Commission will allow for prompt resolution of fiber and wireless deployment and result in more efficient and better priced broadband expansion for the benefit of our rural residents....”

-Former Commissioner Norman J. Kennard



Pole Attachments Act

47 U.S.C. 224

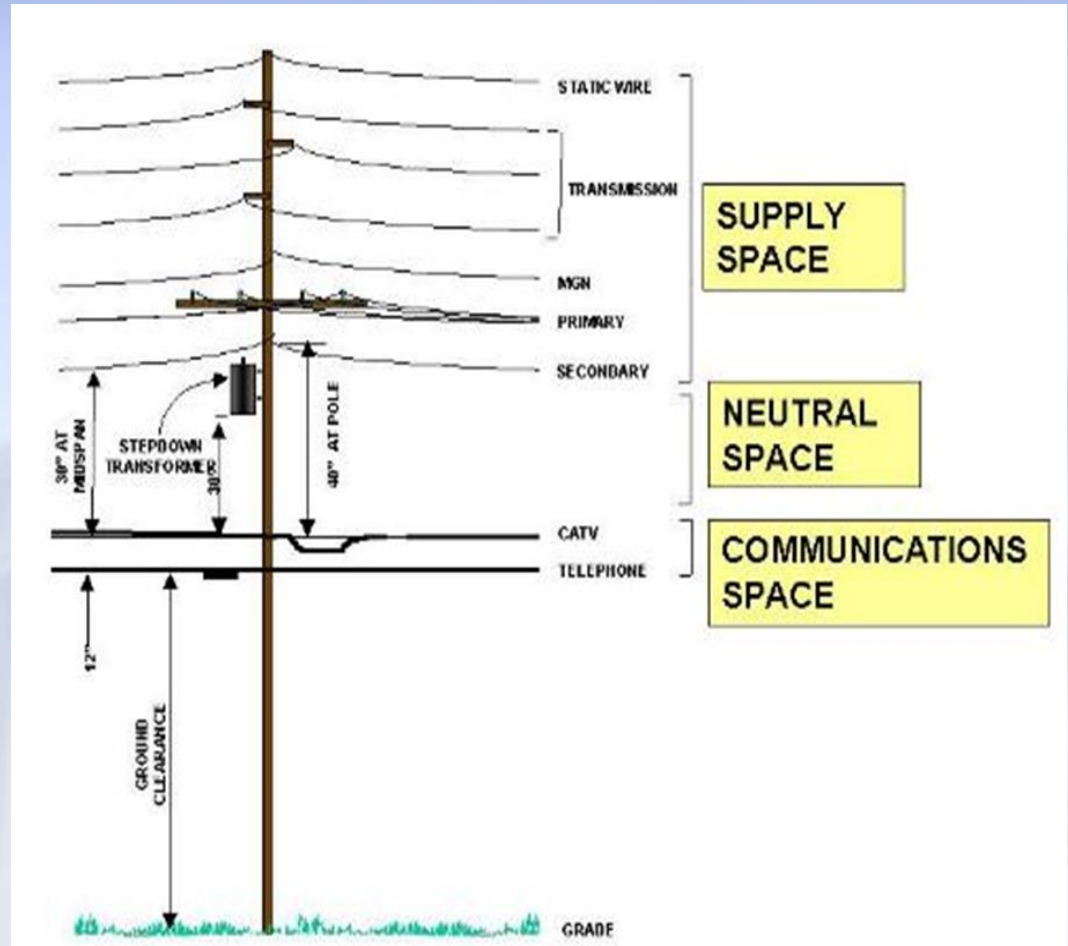
(c) STATE REGULATORY AUTHORITY OVER RATES, TERMS, AND CONDITIONS; PREEMPTION; CERTIFICATION; CIRCUMSTANCES CONSTITUTING STATE REGULATION

(1) Nothing in this section shall be construed to apply to, or to give the [FCC] jurisdiction with respect to rates, terms, and conditions, or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f), for pole attachments in any case where such matters are regulated by a State.



PUC Pole Attachment Rulemaking

- Rulemaking to assert PUC jurisdiction over pole attachments and create a forum for dispute resolution
- Reverse Preemption of FCC jurisdiction
 - PUC regulatory authority over the rates, terms, and conditions of access to use poles





52 Pa. Code Chapter 77

- Adopts the FCC's regulations (47 CFR Subpart J) over pole attachments in totality
- Amendment or Modification of FCC Rules "Automatic Adoption": Effective in PA within 60 days of the federal change unless the Commission publishes otherwise
 - Additional 15-day comment period if the PUC does not adopt the federal change in totality
- Voluntarily Negotiated Agreements
 - Ability of pole owner and attacher to enter into a voluntarily negotiated written agreement is not prevented or limited; in fact, they are preferred
 - Chapter 77 does not supersede or modify any lawful rate, term or condition of a voluntarily negotiated agreement



Pole Attachments Regulations

- Dispute Resolution
 - 180-Day Deadline
 - Final PUC action within 180 days of filing of a complaint
 - Extension to 270-day deadline for good cause shown
 - PUC Procedural Rules Control (except where silent, then FCC procedural rules control)
 - 52 Pa. Code Chapters 1, 3, and 5
 - 66 Pa. C.S. §§ 101-3316
 - Example: No *ex parte* filings before the PUC (permitted before the FCC)



Pole Attachments Working Group

- Working Group

- (1) Monitor and advise the Commission on Federal and State pole attachment issues, including advising the Commission on whether to adopt any future change to the FCC's pole attachment rules.

- (2) Provide an ongoing forum for stakeholders, pole owners and pole attachers to discuss issues and ideas regarding effective pole attachment regulations.

- (3) Evaluate the effectiveness and efficiency of Commission complaint, mediation and dispute resolution processes.



Thank You

Questions?