

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 656
99TH GENERAL ASSEMBLY

1391H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 67.1830, 67.1846, 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 twelve 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 67.1830, 67.1846, 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5102, 67.5103, and 67.5104, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 67.1830, 67.1846, 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5101,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:
- 67.1830. As used in sections 67.1830 to 67.1846, the following terms shall mean:
- (1) "Abandoned equipment or facilities", any equipment materials, apparatuses, devices or facilities that are:
 - (a) Declared abandoned by the owner of such equipment or facilities;
 - (b) No longer in active use, physically disconnected from a portion of the operating facility or any other facility that is in use or in service, and no longer capable of being used for the same or similar purpose for which the equipment, apparatuses or facilities were installed; or
 - (c) No longer in active use and the owner of such equipment or facilities fails to respond within thirty days to a written notice sent by a political subdivision;
 - (2) "Degradation", the actual or deemed reduction in the useful life of the public right-of-way resulting from the cutting, excavation or restoration of the public right-of-way;
 - (3) "Emergency", includes but is not limited to the following:
 - (a) An unexpected or unplanned outage, cut, rupture, leak or any other failure of a public utility facility that prevents or significantly jeopardizes the ability of a public utility to provide service to customers;

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.

16 (b) An unexpected or unplanned outage, cut, rupture, leak or any other failure of a public
17 utility facility that results or could result in danger to the public or a material delay or hindrance
18 to the provision of service to the public if the outage, cut, rupture, leak or any other such failure
19 of public utility facilities is not immediately repaired, controlled, stabilized or rectified; or

20 (c) Any occurrence involving a public utility facility that a reasonable person could
21 conclude under the circumstances that immediate and undelayed action by the public utility is
22 necessary and warranted;

23 (4) "Excavation", any act by which earth, asphalt, concrete, sand, gravel, rock or any
24 other material in or on the ground is cut into, dug, uncovered, removed, or otherwise displaced,
25 by means of any tools, equipment or explosives, except that the following shall not be deemed
26 excavation:

27 (a) Any de minimis displacement or movement of ground caused by pedestrian or
28 vehicular traffic;

29 (b) The replacement of utility poles and related equipment at the existing general
30 location that does not involve either a street or sidewalk cut; or

31 (c) Any other activity which does not disturb or displace surface conditions of the earth,
32 asphalt, concrete, sand, gravel, rock or any other material in or on the ground;

33 (5) "Management costs" or "rights-of-way management costs", the actual costs a political
34 subdivision reasonably incurs in managing its public rights-of-way, including such costs, if
35 incurred, as those associated with the following:

36 (a) Issuing, processing and verifying right-of-way permit applications;

37 (b) Inspecting job sites and restoration projects;

38 (c) Protecting or moving public utility right-of-way user construction equipment after
39 reasonable notification to the public utility right-of-way user during public right-of-way work;

40 (d) Determining the adequacy of public right-of-way restoration;

41 (e) Restoring work inadequately performed after providing notice and the opportunity
42 to correct the work; and

43 (f) Revoking right-of-way permits.

44

45 Right-of-way management costs shall be the same for all entities doing similar work.
46 Management costs or rights-of-way management costs shall not include payment by a public
47 utility right-of-way user for the use or rent of the public right-of-way, degradation of the public
48 right-of-way or any costs as outlined in paragraphs (a) to (f) of this subdivision which are
49 incurred by the political subdivision as a result of use by users other than public utilities, the
50 attorneys' fees and cost of litigation relating to the interpretation of this section or section
51 67.1832, or litigation, interpretation or development of any ordinance enacted pursuant to this

52 section or section 67.1832, or attorneys' fees and costs in connection with issuing, processing,
53 or verifying right-of-way permits or other applications or agreements, or the political
54 subdivision's fees and costs related to appeals taken pursuant to section 67.1838. In granting or
55 renewing a franchise for a cable television system, a political subdivision may impose a franchise
56 fee and other terms and conditions permitted by federal law;

57 (6) "Managing the public right-of-way", the actions a political subdivision takes, through
58 reasonable exercise of its police powers, to impose rights, duties and obligations on all users of
59 the right-of-way, including the political subdivision, in a reasonable, competitively neutral and
60 nondiscriminatory and uniform manner, reflecting the distinct engineering, construction,
61 operation, maintenance and public work and safety requirements applicable to the various users
62 of the public right-of-way, provided that such rights, duties and obligations shall not conflict
63 with any federal law or regulation. In managing the public right-of-way, a political subdivision
64 may:

65 (a) Require construction performance bonds or insurance coverage or demonstration of
66 self-insurance at the option of the political subdivision or if the public utility right-of-way user
67 has twenty-five million dollars in net assets and does not have a history of permitting
68 noncompliance within the political subdivision as defined by the political subdivision, then the
69 public utility right-of-way user shall not be required to provide such bonds or insurance;

70 (b) Establish coordination and timing requirements that do not impose a barrier to entry;

71 (c) Require public utility right-of-way users to submit, for right-of-way projects
72 commenced after August 28, 2001, requiring excavation within the public right-of-way, whether
73 initiated by a political subdivision or any public utility right-of-way user, project data in the form
74 maintained by the user and in a reasonable time after receipt of the request based on the amount
75 of data requested;

76 (d) Establish right-of-way permitting requirements for street excavation;

77 (e) Establish removal requirements for abandoned equipment or facilities, if the
78 existence of such facilities prevents or significantly impairs right-of-way use, repair, excavation
79 or construction;

80 (f) ~~Establish permitting requirements for towers and other structures or equipment for~~
81 ~~wireless communications facilities in the public right-of-way, notwithstanding the provisions of~~
82 ~~section 67.1832;~~

83 ~~—(g)—~~Establish standards for street restoration in order to lessen the impact of degradation
84 to the public right-of-way; and

85 ~~(h)~~ (g) Impose permit conditions to protect public safety;

86 (7) "Political subdivision", a city, town, village, county of the first classification or
87 county of the second classification;

88 (8) "Public right-of-way", the area on, below or above a public roadway, highway, street
89 or alleyway in which the political subdivision has an ownership interest, but not including:

90 (a) The airwaves above a public right-of-way with regard to cellular or other nonwire
91 telecommunications or broadcast service;

92 (b) Easements obtained by utilities or private easements in platted subdivisions or tracts;

93 (c) Railroad rights-of-way and ground utilized or acquired for railroad facilities; or

94 (d) Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission,
95 collection or exchange of communications, information, substances, data, or electronic or
96 electrical current or impulses utilized by a municipally owned or operated utility pursuant to
97 chapter 91 or pursuant to a charter form of government;

98 (9) "Public utility", every cable television service provider, every pipeline corporation,
99 gas corporation, electrical corporation, rural electric cooperative, telecommunications company,
100 water corporation, heating or refrigerating corporation or sewer corporation under the jurisdiction
101 of the public service commission; every municipally owned or operated utility pursuant to
102 chapter 91 or pursuant to a charter form of government or cooperatively owned or operated
103 utility pursuant to chapter 394; every street light maintenance district; every privately owned
104 utility; and every other entity, regardless of its form of organization or governance, whether for
105 profit or not, which in providing a public utility type of service for members of the general
106 public, utilizes pipes, cables, conduits, wires, optical cables, or other means of transmission,
107 collection or exchange of communications, information, substances, data, or electronic or
108 electrical current or impulses, in the collection, exchange or dissemination of its product or
109 services through the public rights-of-way;

110 (10) "Public utility right-of-way user", a public utility owning or controlling a facility
111 in the public right-of-way; and

112 (11) "Right-of-way permit", a permit issued by a political subdivision authorizing the
113 performance of excavation work in a public right-of-way.

67.1846. 1. Nothing in sections 67.1830 to 67.1846 relieves the political subdivision
2 of any obligations under an existing franchise agreement in effect on May 1, 2001. Nothing in
3 sections 67.1830 to 67.1846 will apply to that portion of any ordinance passed prior to May 1,
4 2001, which establishes a street degradation fee. Nothing in sections 67.1830 to 67.1846 shall
5 be construed as limiting the authority of county highway engineers or relieving public utility
6 right-of-way users from any obligations set forth in chapters 229 to 231. Nothing in sections
7 67.1830 to 67.1846 shall be deemed to relieve a public utility right-of-way user of the provisions
8 of an existing franchise, franchise fees, license or other agreement or permit in effect on May 1,
9 2001. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision or public
10 utility right-of-way user from renewing or entering into a new or existing franchise, as long as

11 all other public utility right-of-way users have use of the public right-of-way on a
 12 nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846 shall prevent a grandfathered
 13 political subdivision from enacting new ordinances, including amendments of existing
 14 ordinances, charging a public utility right-of-way user a fair and reasonable linear foot fee [~~or~~
 15 ~~antenna fee~~] or from enforcing or renewing existing linear foot ordinances for use of the right-of-
 16 way, provided that the public utility right-of-way user either:

17 (1) Is entitled under the ordinance to a credit for any amounts paid as business license
 18 taxes or gross receipts taxes; or

19 (2) Is not required by the political subdivision to pay the linear foot fee if the public
 20 utility right-of-way user is paying gross receipts taxes.

21

22 For purposes of this section, a "grandfathered political subdivision" is any political subdivision
 23 which has, prior to May 1, 2001, enacted one or more ordinances reflecting a policy of imposing
 24 any linear foot fees on any public utility right-of-way user, including ordinances which were
 25 specific to particular public right-of-way users. Any existing ordinance or new ordinance passed
 26 by a grandfathered political subdivision providing for payment of the greater of a linear foot fee
 27 or a gross receipts [~~fee~~] tax shall be enforceable only with respect to the linear foot fee.

28 2. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision from
 29 enacting, renewing or enforcing provisions of an ordinance to require a business license tax, sales
 30 tax, occupation tax, franchise tax or franchise fee, property tax or other similar tax, to the extent
 31 consistent with federal law. Nothing in sections 67.1830 to 67.1846 shall prohibit a political
 32 subdivision from enacting, enforcing or renewing provisions of an ordinance to require a gross
 33 receipts tax pursuant to chapter 66, chapter 92, or chapter 94. For purposes of this subsection,
 34 the term "franchise fee" shall mean "franchise tax".

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

67.5092. As used in sections 67.5090 to [~~67.5103~~] **67.5104**, the following terms mean:

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

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

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)]~~ (7) "Collocation", the placement or installation of a new wireless facility on ~~[a]~~ **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 (8) "Communications facility", **the set of equipment and network components,**
34 **including wires and cables and associated facilities used by a cable operator, as defined in**
35 **47 U.S.C. Section 522(5), a telecommunications carrier, as defined in 47 U.S.C. Section**
36 **153(51), a provider of information service, as defined in 47 U.S.C. Section 153(24), or a**
37 **wireless communications provider to provide cable service, as defined in 47 U.S.C. Section**
38 **522(6), telecommunications service, as defined in 47 U.S.C. Section 153(53), an information**
39 **service, as defined in 47 U.S.C. Section 153(24), wireless communications service, or other**
40 **one-way or two-way communications service;**

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

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

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

51 (12) "**Micro wireless facility**", a **small wireless facility that is no larger in dimension**
52 **than twenty-four inches in length, fifteen inches in width, twelve inches in height, and that**
53 **has an exterior antenna, if any, no longer than eleven inches;**

54 (13) "Replacement", includes constructing a new wireless support structure of equal
55 proportions and of equal height or such other height that would not constitute a substantial
56 modification to an existing structure in order to support wireless facilities or to accommodate
57 collocation and includes the associated removal of the preexisting wireless facilities or wireless
58 support structure;

59 ~~[(13)]~~ (14) "**Small wireless facility**", a **wireless facility with an antenna of no more**
60 **than six cubic feet in volume and associated equipment with a cumulative volume no larger**
61 **than twenty-eight cubic feet. An associated electric meter, concealment, telecom**
62 **demarcation box, ground-based enclosure, battery backup power system, grounding**
63 **equipment, power transfer switch, cutoff switch, vertical cable runs and related conduit**
64 **on a pole for the connection of power and other services may be located outside the**
65 **primary equipment enclosure and are not included in the calculation of the equipment**
66 **volume, but any ground-based enclosure shall not exceed fifty cubic feet. Volume shall be**
67 **a measure of the exterior displacement, not the interior volume, of the enclosure. Any**
68 **equipment that is concealed from public view within or behind an existing structure or**
69 **concealment shall not be included in the volume calculations. This term shall include a**
70 **micro wireless facility;**

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

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

74 a. More than ten percent; or

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

77 (b) Involves adding an appurtenance to the body of a wireless support structure that
78 protrudes horizontally from the edge of the wireless support structure more than twenty feet or

79 more than the width of the wireless support structure at the level of the appurtenance, whichever
80 is greater (except where necessary to shelter the antenna from inclement weather or to connect
81 the antenna to the tower via cable);

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

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

86 [(14)] (16) "Utility", any person, corporation, county, municipality acting in its capacity
87 as a utility, municipal utility board, or other entity, or department thereof or entity related thereto,
88 providing retail or wholesale electric, natural gas, water, waste water, data, cable television, or
89 telecommunications, **wireless communications service**, or internet protocol-related services;

90 [(15)] (17) "Utility pole", a structure owned or operated by a utility that is designed
91 specifically for and used to carry lines, cables, [ø] wires, **or wireless facilities** for telephony,
92 **wireless communications service**, cable television, or electricity, or to provide lighting, **traffic**
93 **control, signage, or similar function**;

94 [(16)] (18) "Water tower", a water storage tank, or a standpipe or an elevated tank
95 situated on a support structure, originally constructed for use as a reservoir or facility to store or
96 deliver water;

97 (19) **"Wireless communications infrastructure provider", a person or entity that**
98 **installs or constructs facilities or structures used to provide wireless communications**
99 **service**;

100 [(17)] (20) "Wireless communications service", includes the wireless facilities of all
101 services licensed to use radio communications pursuant to Section 301 of the Communications
102 Act of 1934, 47 U.S.C. Section 301, **and fixed or mobile communication transmission**
103 **services including, but not limited to, data or voice transmissions provided using wireless**
104 **facilities, including both one-way and two-way communications services, and services using**
105 **licensed or unlicensed spectrum including the use of wi-fi; provided that, using wireless**
106 **facilities does not include wireline backhaul services**;

107 (21) **"Wireless communications service provider", a provider of wireless**
108 **communications service**;

109 [(18)] (22) "Wireless facility", the set of equipment and network components, [exclusive
110 of the underlying wireless support structure,] including, but not limited to, antennas, accessory
111 equipment, transmitters, receivers, power supplies, cabling, **small wireless facilities**, and
112 associated equipment necessary to provide wireless communications services. **The term shall**
113 **not include**:

114 (a) **The underlying wireless support structure**;

115 **(b) Wireline backhaul services; or**

116 **(c) Coaxial or fiber-optic cable that is not immediately adjacent to or directly**
 117 **associated with a particular collocation;**

118 ~~[(19)]~~ **(23) "Wireless support structure", a freestanding structure, such as a monopole,**
 119 **tower, ~~or~~ electrical transmission tower, water tower, utility pole, building, or other existing**
 120 **or proposed structure** capable of supporting wireless facilities~~]. ~~This definition does not~~~~
 121 ~~include utility poles.] ;~~

122 **(24) "Wireline backhaul service", the transport of communication data by wire**
 123 **from wireless facilities to a network.**

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]~~ **67.5104**, 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]~~ **67.5104** 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]~~ **67.5104**. A collocation application or application to replace wireless
12 facilities is deemed to be complete unless the authority notifies the applicant in writing, within

13 fifteen calendar days of submission of the application, of the specific deficiencies in the
14 application which, if cured, would make the application complete. Each collocation application
15 or application to replace wireless facilities shall include a copy of a lease, letter of authorization
16 or other agreement from the property owner evidencing applicant's right to pursue the
17 application. Upon receipt of a timely written notice that a collocation application or application
18 to replace wireless facilities is deficient, an applicant may take fifteen calendar days from
19 receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies
20 within fifteen calendar days, the application shall be reviewed and processed within forty-five
21 calendar days from the initial date the application was received. If the applicant requires a period
22 of time 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]~~ **67.5104** 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
2 following provisions shall apply to applications relating to small wireless facilities:**

3 **(1) An authority shall not require an application for the following work:**

4 **(a) Routine maintenance on previously permitted small wireless facilities;**

5 **(b) The replacement of previously permitted small wireless facilities with small
6 wireless facilities that are the same or smaller in size, weight, and height and that have the
7 same or less wind loading and structural loading as those being replaced; or**

8 (c) The installation, placement, maintenance, or replacement of micro wireless
9 facilities that are suspended on cables that are strung between existing utility poles in
10 compliance with national safety codes;

11 (2) Nothing in this section shall prevent an authority from requiring a permit for
12 work in a right-of-way that will involve excavation, affect traffic patterns or cause traffic
13 lane closures, or, for work described in subparagraph (b) of subdivision (1) of this section
14 that involves different equipment than that being replaced, a description of such new
15 equipment so that the authority may maintain an accurate inventory of the small wireless
16 facilities at that location;

17 (3) An authority shall process an application for the collocation of small wireless
18 facilities on a nondiscriminatory basis, and an application may include up to twenty-five
19 separate small wireless facilities, provided that they are for the same or materially same
20 design of small wireless facility being collocated on the same or materially the same type
21 of utility pole or wireless support structure. If an authority receives applications for
22 approval of more than seventy-five small wireless facilities within a fourteen-day period,
23 whether from a single or multiple applicants, the authority may, upon its own request,
24 obtain an automatic thirty-day extension for any additional collocation application
25 submitted during that fourteen-day period. In rendering a decision on an application for
26 multiple small wireless facilities, the authority may approve the application as to certain
27 individual small wireless facilities while denying it as to others. The authority's denial of
28 any individual small wireless facility or subset of small wireless facilities within an
29 application is not a basis to deny the application as a whole;

30 (4) Notwithstanding any provision of law to the contrary, an authority shall not
31 require that an existing structure have an existing wireless facility before a small wireless
32 facility or micro wireless facility may be placed or installed upon such existing structure;

33 (5) An authority shall authorize the collocation of a small wireless facility on a
34 wireless support structure not located within the public right-of-way to the same extent the
35 authority authorizes access to such wireless support structures for other commercial
36 projects or uses, and may authorize the collocation even if the authority has not previously
37 authorized such access, provided required permits are obtained. Except in single-family
38 residential or areas zoned as historic, an applicant shall have the right to install a
39 replacement or modified utility pole or wireless support structure in the public right-of-
40 way for small wireless facilities as authorized by this section, and subject to no greater
41 zoning or permitting requirements than for small wireless facilities, so long as the utility
42 pole or wireless support structure does not exceed the greater of the following:

43 **(a) Ten feet above the tallest existing utility pole already in the public right-of-way.**
44 **For purposes of this subparagraph, "existing utility pole" means a utility pole already in**
45 **the same public right-of-way as of August 28, 2017 and which is located within five**
46 **hundred feet of the applicant's proposed utility pole or wireless support structure; or**

47 **(b) Fifty feet above ground level;**

48 **(6) If an application for the collocation of small wireless facilities is denied, the**
49 **authority shall document the basis for a denial, including the specific standards on which**
50 **the denial was based, and send the documentation to the applicant on or before the day the**
51 **authority denies an application. The applicant may cure the deficiencies identified by the**
52 **authority and resubmit the application within thirty days of the denial without paying a**
53 **new application fee. The authority shall approve or deny the revised application within**
54 **thirty days, and may not raise new deficiencies that were not identified in the original**
55 **denial;**

56 **(7) Once an application for the collocation of small wireless facilities is approved,**
57 **the applicant may maintain the small wireless facility in the permitted location for at least**
58 **ten years, which period shall be extended automatically for at least three five-year periods**
59 **unless the applicant requests that the permit be terminated. During the initial and renewal**
60 **periods, there shall be no requirement for the applicant to reapply to collocate in an**
61 **approved location. Nothing herein precludes the authority from adopting reasonable rules**
62 **with respect to the removal of abandoned small wireless facilities;**

63 **(8) An authority may not institute a moratorium, whether directly through a**
64 **written policy or indirectly through action or inaction, on:**

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

67 **(b) Issuing permits or approvals for the collocation of small wireless facilities;**

68 **(9) An authority may deny applications for small wireless facilities and the**
69 **collocation thereof for the duration of a federal or state-declared natural disaster or for**
70 **more than thirty days in the event of a major and protracted staffing shortage that reduces**
71 **the number of personnel necessary to the receipt, review, processing, and approval or**
72 **denial of applications for the collocation of small wireless facilities by more than fifty**
73 **percent;**

74 **(10) An authority may require that an application for a permit for a small wireless**
75 **facility demonstrate that the small wireless facility reasonably matches the aesthetics of a**
76 **utility pole or wireless support structure with decorative elements; and**

77 **(11) No approval for the installation, placement, maintenance, or operation of a**
78 **small wireless facility under this section shall be construed to confer permission for the**

79 **installation, placement, maintenance, or operation of a wireline backhaul service or**
80 **communications facility, other than a small wireless facility, in the right-of-way.**

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 **except for right-of-way permit fees established under section 67.1840 for the recovery of**

35 **actual, substantiated right-of-way management costs, no authority nor any other political**
36 **subdivision shall demand any fees, rentals, licenses, charges, payments, or assessments**
37 **from any applicant, wireless communications service provider, or wireless communications**
38 **infrastructure provider for, or in any way relating to or arising from, the construction,**
39 **deployment, installation, mounting, modification, operation, use, replacement,**
40 **maintenance, or repair of wireless facilities or wireless support structures. Right-of-way**
41 **permit fees imposed on applicants, wireless communications service providers, and wireless**
42 **communications infrastructure providers shall be competitively neutral with regard to all**
43 **other users of the right-of-way, shall not be in the form of a franchise fee or tax, or other**
44 **fee based on non-cost related factors such as revenue, sales, profits, lines, subscriptions or**
45 **customer counts, and shall not result in double recovery where existing charges already**
46 **recover the direct and actual costs of managing the right-of-way. This paragraph does not**
47 **preclude the imposition of taxes that apply generally to any business operating within the**
48 **jurisdiction of the authority, but does preclude the imposition of business license taxes,**
49 **business license fees, or gross receipt taxes on applicants, wireless communications service**
50 **providers and wireless communications infrastructure providers that are not imposed on**
51 **all other businesses operating within the jurisdiction of the authority, or that are based on**
52 **factors other than gross receipts.**

53 (3) Nothing in subdivision (2) of this section is intended to limit an authority's lawful
54 exercise of zoning, land use, or planning and permitting authority with respect to applications
55 for new wireless support structures on an authority's property under subsection 1 of section
56 67.5096.

57 (4) Except as provided in sections 67.5090 to 67.5104, or as required by federal law,
58 no authority or other political subdivision shall adopt or enforce any regulations on the
59 placement or operation of wireless facilities in the right-of-way where such facilities are
60 already authorized by franchise or authorization other than that granted in sections
61 67.5090 to 67.5104.

62 (5) No authority or other political subdivision shall regulate wireless
63 communications services or impose or collect fees on wireless communications services
64 unless expressly required by state or federal law.

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, a wireless communications**
4 **infrastructure provider, as defined in section 67.5092,** or other communications-related
5 service provider to a pole owned or controlled by a municipal utility or municipality~~], but not a~~
6 ~~wireless antenna attachment or an attachment by a wireless communications provider to a pole].~~
7 As used in this section, "pole" means a utility pole which is owned or controlled by a municipal
8 utility or municipality~~], but shall not include poles that are not associated with the transmission~~
9 ~~or distribution of electric power, communications, broadband, or video services]~~ **that is**
10 **designed for or used to carry lines, cables, wires, wireless facilities for telephony, wireless**
11 **communications services as defined in section 67.5092, electricity, or to provide lighting,**
12 **traffic control, signage, or other similar function.** A municipal utility or municipality may
13 only deny an attaching entity access to the utility's poles on a nondiscriminatory basis if there is
14 insufficient capacity or for reasons of safety and reliability and if the attaching entity will not
15 resolve the issue. If a municipal utility or municipality does not find any capacity, safety, or
16 reliability issues, such municipal utility or municipality shall issue the attaching entity a permit
17 to attach to the municipal utility's or municipality's poles. Nothing in this section shall be
18 construed to prohibit a municipal utility or municipality from requiring an attaching entity to
19 enter into a pole attachment agreement consistent with this section; **except that,**
20 **communications infrastructure providers or wireless communications service providers**
21 **may collocate small wireless facilities on municipal utility poles located within public roads**
22 **or right-of-ways without being required to apply for, or enter into, any individual license**
23 **or franchise with the municipal utility, municipality, or other entity, but subject to**
24 **nondiscriminatory, competitively neutral, and commercially reasonable terms and**
25 **conditions as may be set forth in a pole attachment agreement with the municipal utility**
26 **or municipality, which terms and conditions shall comply with this section and federal pole**
27 **attachment requirements under 47 U.S.C. Section 224 and corresponding regulations.**
28 **Within the later of six months after August 28, 2017 or three months after receiving a**
29 **request by a wireless communications service provider or wireless communications**
30 **infrastructure provider, each municipal utility and municipality shall establish and make**
31 **available a standard pole attachment agreement the complies with the requirements of**
32 **sections 67.5092 to 67.5104. The standard pole attachment agreement must be sufficiently**
33 **comprehensive that a wireless communications service provider or wireless**
34 **communications infrastructure provider may accept it without negotiation. All pole**

35 **attachment agreements with wireless communications service providers and wireless**
36 **communications infrastructure providers shall be considered a public record as defined**
37 **under chapter 610.**

38 2. **(1)** Notwithstanding sections 67.1830 to 67.1846, any pole attachment fees, terms, and
39 conditions, including those related to the granting or denial of access, demanded by a municipal
40 utility pole owner or controlling authority of a municipality shall be nondiscriminatory, just, and
41 reasonable and shall not be subject to any required franchise authority or government entity
42 permitting, except as provided in this section. A pole attachment rental fee shall be calculated
43 on an annual, per-pole basis. Such rental fee shall be considered nondiscriminatory, just, and
44 reasonable if it is agreed upon by the parties or, in the absence of such an agreement, based on
45 cost but in no such case shall such fee so calculated be greater than the fee which would apply
46 if it were calculated in accordance with the cable service **pole attachment** rate formula
47 referenced in 47 U.S.C. [See-] **Section 224(d)** as applied by the Federal Communications
48 Commission. In addition, a municipal pole owner may be authorized to exceed the rate of return
49 cost components of the Federal Communications Commission formula referenced in this section
50 if necessary to comply with Article X of the Missouri Constitution. In the event of a dispute
51 between the parties, either party may bring an action for review in any court of competent
52 jurisdiction. The court shall rule on any such petition for review in an expedited manner by
53 moving the petition to the head of the docket consistent with [~~subsection 2-0f~~] this section.
54 Nothing shall deny any party the right to a hearing before the court.

55 **(2) Make-ready work shall be addressed as follows, unless the parties agree to**
56 **different terms in a pole attachment agreement:**

57 **(a) For municipal utility or municipality owned poles that support aerial cables**
58 **used for video communications or electric service, the parties shall comply with the process**
59 **for make-ready work under 47 U.S.C. Section 224 and implementing regulations. The**
60 **good faith estimate of the entity owning or controlling the pole for any make-ready work**
61 **necessary to enable the pole to support the requested collocation shall include pole**
62 **replacement, if necessary;**

63 **(b) For municipal utility or municipality owned poles that do not support aerial**
64 **cables used for video communications or electric service, the municipal utility or**
65 **municipality shall provide a good faith estimate for any make-ready work necessary to**
66 **enable the pole to support the requested collocation, including pole replacement, if**
67 **necessary, within sixty days after receipt of a complete application. Make-ready work,**
68 **including any pole replacement, shall be completed within sixty days of written acceptance**
69 **of the good faith estimate by the applicant; and**

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

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

85 4. The provisions of this section shall not supersede existing pole attachment agreements
86 established prior to August 28, ~~[2014]~~ 2017.

87 5. Nothing in this section shall be construed as conferring any jurisdiction or authority
88 to the public service commission or any state agency to regulate either the fees, terms, or
89 conditions for pole attachments, or for any state agency to assert any jurisdiction over
90 attachments to poles regulated by 47 U.S.C. ~~[Sec.]~~ **Section 224.**

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

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

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

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

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

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

115 7. Unless otherwise provided for in an applicable pole attachment agreement, in the
116 event of an imminent threat to public health, life, or safety, a municipal utility or municipality
117 shall, upon notice to the attaching entity, request the attaching entity rearrange, relocate, or
118 remove a pole attachment from a pole or absent action from the attaching entity, have the
119 authority to rearrange, relocate, or remove a pole attachment consistent with industry practices.
120 The attaching entity shall be notified as soon as practicable upon the cessation of the threat to
121 public health, life, or safety, or upon restoration of the attachment by the municipal utility or
122 municipality.

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