

Senator Birkholz offered the following resolution:

Senate Resolution No. 135.

A resolution to request that the Michigan Public Service Commission create a Pole Attachment Remediation Fund and establish procedures to resolve pole attachment disputes.

Whereas, Many broadband networks depend on utility poles to extend their networks. Many utility poles in the state have myriad attachments and some contain attachments that are in violation of the National Electric Safety Code (NESC). Thus, those seeking to build new broadband networks throughout the state are confronted with utility poles which may require upgrades to make the pole suitable for new and existing attachments; and

Whereas, Disputes between attaching parties and utility pole owners are causing delays in the construction of broadband networks throughout the state. The Michigan Public Service Commission (MPSC) has recognized that the lack of available space on utility poles and existing violations of the NESC by attaching parties have a particularly detrimental impact on the ability of those seeking to construct broadband networks, particularly those seeking to construct educational broadband networks. Thus, broadband deployment in the state is hindered; and

Whereas, On October 7, 2003, the MPSC approved a settlement agreement that provided for the creation of a fund that could be used to reimburse parties that undertook remediation of pole violations that they did not cause. The settlement agreement had a term of three years, and expired on October 7, 2006; and

Whereas, Broadband deployment is critical to the economic well-being of state residents. Clearly, it is imperative that disputes between attaching parties and utility pole owners be resolved in the most efficacious way possible so as not to hinder the economic progress of the state, especially in such difficult economic times; now, therefore, be it

Resolved by the Senate, That we request the MPSC to immediately establish a procedure for rapidly resolving disputes regarding responsibility for remedying pole attachment violations that places the burden of remediation on the party responsible for the violation; and be it further

Resolved by the Senate, That we request the MPSC to establish a Pole Remediation Fund that can be used to reimburse parties that undertook remediation of pole attachment violations that they did not cause; and be it further

Resolved, That copies of this resolution be transmitted to the Governor of the state of Michigan and the Chairman of the Michigan Public Service Commission.