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SENATE  
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SENATE  
S. No. 2052

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Introduced by **Senator Manuel "Lito" M. Lapid**

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**AN ACT  
REGULATING POLES, POLE ATTACHMENTS  
AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

Section 24, Article II of the 1987 Constitution recognizes the vital role of communication and information in nation-building. Corollary to this recognition is the duty for the government that the necessary infrastructure to foster growth and development in the telecommunications and radio and TV industry, among the many other related industries, are available and accessible to all players. One example of an important facility for this industry is the network of utility poles where cables and wires are placed and connected. Telecommunications companies and cable TV networks rely heavily on the availability of these poles in order for their services to reach communities and households, especially in far-flung or geographically isolated localities. Due to the large amount of investment required to lay down even just a single line of posts for a few kilometers of distance, these companies are normally forced to lease or use those that are already existing and pay arbitrary and exorbitant pole attachment fees to the owners. While pole owners are unjustly enriched under this setup, the attaching companies bear the costs and burden, which will eventually trickle down to the bills paid by their customers.

This dire situation is primarily due to the lack of a regulatory system on pole attachments. This bill seeks to fill this policy gap by instituting a fair, just and reasonable framework for the imposition of pole attachment fees and curtail the abusive and

outrageous pricing practices, with the National Telecommunications Commission, as the implementing agency. Furthermore, to curb anti-competitive conduct, this proposed measure includes the policy for non-discriminatory access to all utility poles and related support structures. The rights and responsibilities of pole owners and attaching entities are also provided, including a mechanism for dispute resolution under the auspices of the NTC.

In view of this, early passage of this bill is sought.



**MANUEL "LITO" M. LAPID**  
*Senator*

SENATE

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**AN ACT  
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*Be it enacted by the Senate and the House of Representatives of the Philippines  
in Congress assembled:*

1 SECTION 1. *Short Title.* – This Act shall be known as the "*Pole Attachments*  
2 *Act*".

3  
4 Sec. 2. *Declaration of Policy.* – It is the declared policy of the State to regulate  
5 the use of utility poles, related support structures and rights of way for the  
6 transmission of TV or telecommunications signals, as well as the rates, terms and  
7 conditions for pole attachments in order to promote the growth of and protect the  
8 cable television and telecommunications industries, and for the ultimate purpose of  
9 providing the consuming public with wider and more affordable access to an improved  
10 variety of services. The State shall guarantee the right of cable TV operators and  
11 telecommunication companies to secure and use their own or to have and maintain  
12 access to utility poles, related support structures and rights of way used or useful,  
13 whole or in part, in the transmission of TV or telecommunications signals under a just  
14 and reasonable framework.

15  
16 Sec. 3. *Construction and Interpretation.* – The provisions of this Act shall be  
17 liberally construed in order to carry out the declared policy of the State. Accordingly,  
18 reference may be made to the recognized standards of safety, industry practices and  
19 generally accepted engineering principles.

1           **Sec. 4. Definition of Terms.**

- 2           a. "Pole Owner" refers to an entity, that may be a power or other public  
3           utility, a telecommunications company, a cable TV operator, a local  
4           cooperative, a municipal corporation or a property developer, that  
5           owns utility poles, related support structures and/or controls right of  
6           way used or useful, in whole or in part, in the transmission of TV or  
7           telecommunications signals to subscribers.  
8
- 9           b. "Attaching Entity" refers to an entity, that may be a cable TV operator  
10           or a telecommunications company that makes or maintains a pole  
11           attachment.  
12
- 13           c. "Pole Attachment" refers to the attachment made by an attaching  
14           entity to a pole owner's utility pole, related support structure or right  
15           of way used or useful, in whole or in part, in the transmission of TV  
16           or telecommunications signals to subscribers.  
17
- 18           d. "Pole Attachment Fee" refers to amount to be paid by the attaching  
19           entity to the pole owner in exchange for the pole attachment,  
20           payable at the end of every quarter of a year on a per pole basis.  
21
- 22           e. "Additional Maintenance Expense" refers to the necessary quarterly  
23           cost directly and exclusively pertaining to preserving the integrity and  
24           proper functioning of the pole attachment. It forms part of the pole  
25           attachment fee.  
26
- 27           f. "Pole Premium" refers to the amount, equivalent to Twelve percent  
28           (12%) of the additional maintenance expense, payable to the pole  
29           owner as premium for the pole attachment. It forms for the other  
30           part of the pole attachment fee.  
31
- 32           g. "Commission" refers to the National Telecommunications  
33           Commission as the implementing body of this Act.  
34
- 35

1           **Sec. 5. Formula for the Pole Attachment Fee** – The pole attachment fee shall  
2 be equal to the sum of the additional maintenance expense and the pole premium,  
3 wherein:

4  
5           a. For the purposes of this Act, the additional maintenance expense  
6           shall be disputably presumed to be equal to Twenty-Five Pesos (Php  
7           25.00).

8  
9           Provided, that the foregoing disputable presumption may be adjusted by  
10 the Commission Five (5) years after the passage of this Act and every  
11 Five *Provided*, that the foregoing disputable presumption may be  
12 adjusted by the Commission Five (5) years thereafter, as warranted by  
13 the arguments and proofs submitted by the parties. In no case shall the  
14 adjustment be more than Twenty percent (20%) of the previous amount  
15 of the disputable presumption.

16  
17           *Provided further*, that the foregoing disputable presumption may be  
18 disputed on a case-to-case basis by the pole owner or the attaching  
19 entity, by way of submission to the Commission of proof of the necessary  
20 quarterly cost directly and exclusively pertaining to preserving the  
21 integrity and proper functioning of the pole attachment. During the said  
22 dispute, any payments made would utilize the foregoing disputable  
23 presumption subject to refund or additional payment as and after  
24 determined by the Commission.

25  
26           b. For the purposes of this Act, the pole premium shall be equal to  
27           Twelve percent (12%) of the additional maintenance expense.

28  
29           c. For the purposes of this Act, the number of utility poles for which  
30 pole attachment fees are payable shall be equal to the number of  
31 utility poles applied for pole attachment by the attaching entity minus  
32 the number of pole attachments validly denied by the pole owner.

1           *Provided*, that the foregoing number of utility poles for which poles for which  
2 pole attachment fees are payable may be disputed on a case-to-case basis by the  
3 pole owner or the attaching entity, by way of submission to the Commission of proof  
4 pertaining to the actual number of utility poles subject to pole attachments. During  
5 the said dispute, any payments made would utilize the previous number of utility  
6 poles for which pole attachment fees were paid subject to refund or additional  
7 payment, as and after determined by the Commission.

8  
9           **Sec. 6. *Non-discriminatory Access.*** – A pole owner shall provide and maintain  
10 non-discriminatory access to all utility poles and related support structures it owns  
11 and rights of way it controls in exchange for the payment of the pole attachment fee,  
12 on terms and conditions uniform to all attaching entities, including its own affiliates or  
13 subsidiaries. For this purpose, the pole owner shall submit to the Commission a copy  
14 of all pole attachment contracts it has entered into.

15  
16           *Provided*, that a pole owner may validly deny in writing a pole attachment to a  
17 utility pole or related support structure it owns or a right of way it controls by reason  
18 of recognized standards of safety, industry practices or generally accepted engineering  
19 principles.

20  
21           *Provided further*, that in case a pole owner validly denies a pole attachment, or  
22 removes the same due to an emergency, and thereafter the reason for such denial or  
23 removal ceases or additional capacity becomes available for a pole attachment, the  
24 pole owner shall be bound to offer the capacity for a pole attachment to the denied  
25 or previous attaching entity first, before occupying the same or offering it to the other  
26 potential attaching entities, including its own affiliates or subsidiaries. Any removal not  
27 due to an emergency shall require prior written notice to the attaching entity.

28  
29           **Sec. 7. *Rights and Responsibilities of the Parties.*** – In addition to those provided  
30 for by the other provisions of this Act and by other relevant laws, the pole owner and  
31 the attaching entity shall have the following rights and responsibilities:

- 1 a. The actual pole attachments shall be made, modified and removed  
2 at the cost and responsibility of the attaching entities whereas the  
3 maintenance and replacement of utility poles, related support  
4 structures and rights of way shall be at the cost and responsibility of  
5 the pole owner.  
6  
7 b. As far as practicable, the attaching entity shall make, modify and  
8 remove the pole attachments in a manner that preserves the integrity  
9 and proper functioning of the pole owner's utility poles, related  
10 support structures and rights of way, and likewise the pole owner  
11 shall conduct the maintenance and replacement of the utility poles,  
12 related support structures and rights of way in a manner that also  
13 preserves the integrity and proper functioning of the pole  
14 attachments.  
15  
16 c. In case of disputes between the parties to a proposed, pre-existing  
17 or previous pole attachment, the same shall be submitted to the  
18 Commission's determination subject to relevant procedural and  
19 evidentiary rules.

20  
21 **Sec. 8. *Non-availability of Utility Poles, Related Support Structures and Rights***  
22 ***of Way*** – In case utility poles, related support structures and/or rights of way used or  
23 useful, in whole and in part, in the transmission of TV or telecommunications signals  
24 are not available for pole attachment, legitimate cable TV operators and  
25 telecommunications companies shall have the option to secure and use their own  
26 provided the following requirements are complied with:

- 27  
28 a. That said utility poles, related support structures and rights of way  
29 shall be secured and used by legitimate cable TV operators and  
30 telecommunications companies at their own cost and responsibility.  
31  
32 b. That the said utility poles, related support structures and rights of  
33 way shall be secured and used with due reference to the recognized

1 standards of safety, industry practices and generally accepted  
2 engineering principles.

- 3  
4 c. That the said utility poles, related support structures and rights of  
5 way shall be subject to the same pole attachment rules and  
6 regulations imposed by this Act.

7  
8 **Sec. 9. *Penalty for Violation.*** – Whenever a party is found to have any provision  
9 of this Act or of any obligation or contract covered by it, upon the complaint of the  
10 violated party and as determined by the Commission, the violating party shall be  
11 compelled to rectify the violation at its own cost without prejudice to the applicable  
12 civil or criminal liabilities provided for by other relevant laws.

13  
14 **Sec. 10. *Implementing Rules and Regulations.*** – The Commission as the  
15 implementing body of this Act shall perform the functions and duties necessary to  
16 carry out its purposes, including the resolution of disputes and complaints and the  
17 promulgation of the appropriate implementing rules and regulations.

18  
19 *Provided,* that the implementing rules and regulations shall, as far as  
20 practicable, be similar to the current procedural and evidentiary rules that the  
21 Commission follows and that the same should be promulgated within Two (2) months  
22 after the effectivity of this Act.

23  
24 **Sec. 11. *Appropriations.*** – The amount necessary to carry out the provisions of  
25 this Act shall be provided in a supplemental budget or included in the General  
26 Appropriations Act of the year of its enactment into law. Thereafter, the expenses for  
27 its continued implementation shall be included in the subsequent General  
28 Appropriations Act.

29  
30 **Sec. 12. *Transitory Provision.*** – Acts and contracts of parties executed before  
31 the effectivity of this Act shall be governed by the laws in force at the time of their  
32 execution, except that an any revocation, modification or novation made after the  
33 effectivity of this Act shall be subject to the provisions of this law.



1           Sec. 13. *Separability Clause.* – If any provision of this Act is held invalid, all  
2 other provisions not affected thereby shall be remain valid.

3  
4           Sec. 14. *Repealing Clause.* – All laws, presidential decrees, executive orders,  
5 rules and regulations or any issuances or parts thereof inconsistent of this Act are  
6 hereby repealed or amended accordingly.

7  
8           Sec. 15. *Effectivity.* – This Act shall take effect Fifteen (15) days after the  
9 publication in Two (2) newspapers of general circulation.

10  
11           *Approved,*