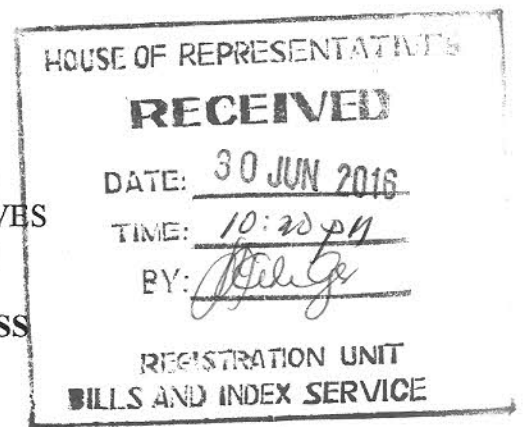


Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City, Metro Manila

SEVENTEENTH CONGRESS

First Regular Session

House Bill No. 633



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**INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO**

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**EXPLANATORY NOTE**

Cable television ("TV") and telecommunications companies mainly employ cables and related transmission equipment to deliver their services to their customers. These companies thus make attachments to utility poles and make use of related support structures and rights of way to transmit cable television or telecommunications signals, as the case may be.

Because the establishment and maintenance of utility poles and related support structures and the acquisition of rights of way require significant financial investments, only a few can afford to do so. Hence, cable TV and telecommunications companies make use of pole attachments and pay fees to pole owners for such attachments. This arrangement, however, has allegedly led to pole owners charging excessive amounts for cable TV and telecommunications pole attachments. The huge cost of making and maintaining pole attachments are then passed on to consumers.

Congress must thus step in and regulate the use of utility poles, related support structures, and rights of way and the rates, terms, and conditions for making pole attachments in order to promote the growth and expansion of the Philippine cable TV and telecommunications industries and to enable the public to enjoy a more affordable and a wider array of cable TV and telecommunication services. Indeed, our Constitution provides for the state policy recognizing the vital role of communication and information in nation-building.

In view of all the foregoing, the kind and favorable support of the Members of Congress for the prompt and timely passage of this measure is earnestly sought.

  
**XAVIER JESUS D. ROMUALDO**

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AN ACT  
REGULATING THE USE OF UTILITY POLES, RELATED SUPPORT STRUCTURES,  
AND RIGHTS OF WAY FOR THE TRANSMISSION OF CABLE TELEVISION OR  
TELECOMMUNICATION SIGNALS, INCLUDING THE RATES AND TERMS FOR  
POLE ATTACHMENTS, AND FOR OTHER PURPOSES

*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 Act.

2  
3           SEC. 2. Declaration of Policy – It is hereby declared the policy of the State to regulate  
4 the use of utility poles, related support structures, and rights of way for the transmission of cable  
5 television or telecommunications signals, as well as the rates, terms, and conditions for Pole  
6 Attachments in order to promote the growth of the cable television and telecommunications  
7 industries in the country and for the purpose of providing the public with wider access to and  
8 reasonable rates for cable television and telecommunications services.

9 The State shall guarantee that cable television operators and telecommunications companies may  
10 secure and use their own or have and maintain access to utility poles, related support structures,  
11 and rights of way used or useful, in whole or in part, in the transmission of television or  
12 telecommunications signals under a just and reasonable framework.

13  
14           SEC. 3. Construction of this Act. – When there is any doubt or ambiguity in the  
15 interpretation or implementation of the provisions of this Act, the same shall be liberally  
16 construed in order to carry out this Act's purposes and intent. Likewise, reference may be made

1 to recognized standards of safety, industry practice, and generally accepted engineering  
2 principles.

3  
4 SEC. 4. Definition of Terms. – As used in this Act, the following terms are hereby defined,  
5 as follows:

6 a. Pole Owner – refers to any natural or juridical person that owns or controls utility poles,  
7 related support structures, or rights of way used or useful, in whole or in part, in the  
8 transmission of cable television or telecommunications signals.

9  
10 b. Pole Attachment – refers to an attachment made by an Attaching Company to a utility  
11 pole, including its related support structure/s or right of way, used or useful, in whole or  
12 in part, in the transmission of cable television or telecommunications signals.

13  
14 c. Attaching Company – refers to any natural or juridical person that makes or maintains a  
15 Pole Attachment for the purpose of transmitting cable television or telecommunications  
16 signals.

17  
18 d. Pole Attachment Fee – refers to the total amount to be paid by an Attaching Company to  
19 a Pole Owner at the end of every quarter of every calendar year on a per-utility pole  
20 basis.

21  
22 e. Additional Maintenance Expense – refers to the necessary quarterly expense directly and  
23 exclusively pertaining to the preservation of the integrity and proper functioning of a Pole  
24 Attachment.

25  
26 f. Pole Premium – refers to the remuneration payable to a Pole Owner for allowing a Pole  
27 Attachment on its utility pole.

28

29

1 SEC. 5. Formula for Computing the Pole Attachment Fee. – The Pole Attachment Fee shall  
2 be equal to the sum of the Additional Maintenance Expense and the Pole Premium, wherein:

3  
4 a. Unless proven otherwise by the Pole Owner or the Attaching Company, the Additional  
5 Maintenance Expense shall be presumed to be P25.00; Provided, that such presumed  
6 amount shall be adjusted by the National Telecommunications Commission (NTC) five  
7 (5) years after the effectivity of this Act and every five (5) years thereafter, after due  
8 public hearing. Nevertheless, any increase shall not be more than 20% of the present  
9 presumed amount.

10  
11 The Pole Owner or the Attaching Company may dispute the presumed amount of Additional  
12 Maintenance Expense and prove the actual amount of Additional Maintenance Expense  
13 incurred before the NTC by presenting substantial evidence on the necessary quarterly costs  
14 directly and exclusively pertaining to the preservation of the integrity and proper functioning  
15 of the Pole Attachment. Prior to a determination by the NTC of the actual amount of  
16 Additional Maintenance Expense, the presumed amount of Additional Maintenance Expense  
17 shall be used as basis for any and all payments to be made, subject to an order for refund or  
18 additional payment, as may later be determined by the NTC.

19  
20 b. The Pole Premium shall be equivalent to 12% of the Additional Maintenance Expense.

21  
22 c. The number of utility poles for which Pole Attachment Fees shall be payable shall be  
23 equal to the number of utility poles applied for attachment by the Attaching Company  
24 less the number of attachments validly denied by the Pole Owner; Provided, that the  
25 number of utility poles for which Pole Attachment Fees are payable may be disputed by  
26 the Pole Owner or the Attaching Company before the NTC by presenting substantial  
27 evidence on the actual number of utility poles utilized for Pole Attachments. Prior to a  
28 determination by the NTC of the actual number of utility poles for which Pole  
29 Attachment Fees shall be payable, the present number of utility poles for which Pole  
30 Attachment Fees shall be payable shall be used as basis for any and all payments to be

1           made, subject to an order for refund or additional payment, as may later be determined by  
2           the NTC.

3  
4           SEC. 6. Non-Discriminatory Access. – A Pole Owner shall provide and maintain non-  
5           discriminatory access for all utility poles and related support structures it owns, including rights  
6           of way it controls, on terms and conditions uniform to all Attaching Companies, including its  
7           own subsidiaries and affiliates; Provided, that a Pole Owner may deny, in writing, an application  
8           for Pole Attachment due to safety or engineering hazards; Provided, further, that in the event a  
9           Pole Owner validly denies an application for Pole Attachment or removes a Pole Attachment due  
10          to an emergency and, thereafter, the reason for such denial or removal ceases or an additional  
11          capacity for a Pole Attachment becomes available, the Pole Owner shall first offer the available  
12          slot for Pole Attachment to the Attaching Company whose application was denied or whose Pole  
13          Attachment was removed before utilizing the same or offering or allowing the same to be  
14          utilized by another Attaching Company, including the Pole Owner's subsidiaries or affiliates.  
15          Any removal of a Pole Attachment that is not due to an emergency shall require the furnishing of  
16          a prior written notice to the Attaching Company, within a reasonable period of time sufficient to  
17          prevent disruption of service to the latter's clients.

18  
19          All Pole Owners shall submit to the NTC a copy of all contracts entered into with  
20          Attaching Companies for the use of Pole Attachments, utility poles, related support structures,  
21          and rights of way.

22  
23          SEC. 7. Rights and Obligations of the Parties. – In addition to those provided by the other  
24          provisions of this Act and existing law, Pole Owners and the Attaching Companies shall have the  
25          following rights and obligations:

- 26          a. Pole Attachments shall be made, modified, or removed at the cost of and under the  
27             responsibility of the Attaching Company while the maintenance and replacement of  
28             utility poles, related support structures, and rights of way shall be at the cost of and under  
29             the responsibility of the Pole Owner.

1       b. As far as practicable, the Attaching Company shall make, modify, or remove Pole  
2       Attachments in a manner that preserves the integrity and proper functioning of utility  
3       poles, related support structures, and rights of way; likewise the Pole Owner shall  
4       conduct the maintenance and replacement of the utility poles, related support structures,  
5       and rights of way. It shall be the responsibility of the Pole Owner to conduct regular  
6       maintenance and replacement of defective, dilapidated, and hazardous utility poles and  
7       such other related structures to preserve the integrity and proper functioning of the utility  
8       pole and Pole Attachments.

9  
10       c. In case of any dispute between the parties regarding a proposed, existing, or previous  
11       Pole Attachment, the same shall be brought before the NTC for resolution.

12  
13       SEC. 8. Unavailability of Utility Poles, Related Support Structures, and Rights of Ways. – In  
14       case utility poles, related support structures, or rights of way used or useful, in whole or in part,  
15       in the transmission of cable television or telecommunications signals are not available for Pole  
16       Attachment installation, licensed or legitimate cable television operators and telecommunications  
17       companies may set up, secure, and use their own utility poles subject to the following conditions:

18       a. Utility poles, related support structures, and rights of way shall be set up, secured, and  
19       used by licensed or legitimate cable television operators and telecommunications  
20       companies at their own cost and responsibility.

21       b. Utility poles, related support structures, and rights of way shall be set up, secured, and  
22       used in accordance with recognized standards of safety, industry practice, and generally  
23       accepted engineering principles.

24       c. Utility poles, related support structures, and rights of way set up, secured, and used by  
25       licensed or legitimate cable television operators and telecommunications companies shall  
26       be subject to the provisions of this Act.

27  
28       SEC. 9. Penalty for Violation. – A Pole Owner or Attaching Company that is found by the  
29       NTC to have violated any provision of this Act shall be compelled to rectify the violation at its  
30       own cost, without prejudice to other applicable civil or criminal liabilities under existing law.

1        SEC. 10. Jurisdiction of the National Telecommunications Commission. – The NTC shall  
2        have primary and exclusive jurisdiction to determine and resolve all disputes arising from the  
3        implementation of this Act, the rights and obligations of Pole Owners and Attaching Companies  
4        under this Act, as well as those arising from contracts entered into by Pole Owners and Attaching  
5        Companies for the use of Pole Attachments, utility poles, related support structures, and rights of  
6        way.

7  
8        SEC. 11. Implementing Rules and Regulations. – The NTC shall, within sixty (60) days from  
9        the effectivity of this Act, promulgate the necessary rules and regulations for the effective  
10       implementation of this Act.

11  
12       SEC. 12. Appropriations. – The amounts necessary to carry out the provisions of this Act  
13       shall be charged against any appropriate and available item or items in the budget of the NTC for  
14       the current fiscal year and shall thereafter be included in the annual General Appropriations Act.

15  
16       SEC. 13. Transitory Clause. – Pertinent acts and contracts entered into prior to the effectivity  
17       of this shall be governed by the law in force at the time of their execution or perfection, as the  
18       case may be; Provided that any revocation, modification, or novation made after the effectivity  
19       of this Act shall be subject to the provisions of this Act.

20  
21       SEC. 14. Separability Clause. – If any provision of this Act is declared invalid or  
22       unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

23  
24       SEC. 15. Repealing Clause. – All laws, decrees, executive orders and issuances,  
25       proclamations, rules and regulations, and other issuances or parts thereof that are inconsistent  
26       with the provisions of this Act are hereby repealed or modified accordingly.

27  
28       SEC. 16. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication  
29       in the Official Gazette or a newspaper of general circulation.

30       Approved,