

1 telecommunications or broadband service facilities in
2 a public right-of-way, and the facilities will be placed
3 or modified in an area where the public right-of-way
4 intersects with a railroad corridor, the provider—

5 “(A) shall submit to the relevant railroad
6 carrier a written notification that the placement
7 or modification has been authorized by the
8 State or local government; and

9 “(B) is not required to submit an applica-
10 tion to the railroad carrier under subsection (b)
11 with respect to the placement or modification.

12 “(2) CONTENTS.—A notification submitted
13 under paragraph (1) shall contain the following in-
14 formation with respect to the placement or modifica-
15 tion described in such paragraph:

16 “(A) The location of the placement or
17 modification.

18 “(B) The proposed date of commencement
19 of work with respect to the placement or modi-
20 fication.

21 “(C) The anticipated duration of the work.

22 “(D) The entry and exit points that will be
23 used with respect to the performance of the
24 work.

1 “(E) The contact information of the pro-
2 vider.

3 “(3) SCHEDULING.—Following the submission
4 of a notification under paragraph (1)—

5 “(A) the provider shall schedule a date in
6 coordination with the railroad carrier for the
7 placement or modification of the facilities to
8 which the notification applies; and

9 “(B) the placement or modification de-
10 scribed in subparagraph (A) shall commence—

11 “(i) not earlier than the date that is
12 15 days after the date on which the notifi-
13 cation is submitted; and

14 “(ii) not later than—

15 “(I) the date that is 30 days
16 after the date on which the notifica-
17 tion is submitted; or

18 “(II) such other date as mutually
19 agreed upon by the provider and the
20 railroad carrier.

21 “(4) PAYMENT NOT REQUIRED.—

22 “(A) IN GENERAL.—A provider is not re-
23 quired to pay a railroad carrier with respect to
24 the placement or modification of telecommuni-
25 cations or broadband service facilities in a pub-

1 lic right-of-way as authorized by a State or
2 local government.

3 “(B) RULE OF CONSTRUCTION.—Nothing
4 in subparagraph (A) may be construed to affect
5 any requirement, pursuant to an authorization
6 by a State or local government for a provider
7 to place or modify telecommunications or
8 broadband service facilities in a public right-of-
9 way, for the provider to make any payment to
10 any entity with respect to the placement or
11 modification.

12 “(b) APPLICATION TO PLACE OR MODIFY TELE-
13 COMMUNICATIONS OR BROADBAND SERVICE FACILITIES
14 IN RAILROAD RIGHTS-OF-WAY.—

15 “(1) IN GENERAL.—In order to place or modify
16 telecommunications or broadband service facilities in
17 the right-of-way of a railroad carrier, a provider
18 shall submit to the railroad carrier a written applica-
19 tion that contains the following information:

20 “(A) Engineering design plans, construc-
21 tion plans, and (if applicable) bore plans with
22 respect to the placement or modification that
23 are in accordance with the Manual for Railway
24 Engineering of the American Railway Engineer-
25 ing and Maintenance-of-Way Association that

1 was most recently published before the date on
2 which the application is submitted.

3 “(B) The location of the placement or
4 modification.

5 “(C) The proposed date of commencement
6 of work with respect to the placement or modi-
7 fication.

8 “(D) The anticipated duration of the work.

9 “(E) The entry and exit points that will be
10 used with respect to the performance of the
11 work.

12 “(F) The contact information of the pro-
13 vider.

14 “(G) Proof of insurance with respect to the
15 work.

16 “(2) DECISION.—

17 “(A) IN GENERAL.—Not later than 60
18 days after the date on which a railroad carrier
19 receives an application that contains the infor-
20 mation required by paragraph (1), the railroad
21 carrier shall—

22 “(i) approve or deny the application;

23 and

1 “(ii) transmit to the provider that
2 submitted the application a notification of
3 the approval or denial under clause (i).

4 “(B) EXCLUSIVE REASONS FOR DENIAL.—
5 A railroad carrier may only deny an application
6 under subparagraph (A) if the placement or
7 modification of telecommunications or
8 broadband service facilities proposed in the ap-
9 plication would—

10 “(i) substantially interfere with or
11 damage the infrastructure or permanent
12 operations of the railroad carrier; or

13 “(ii) jeopardize the safety of pas-
14 sengers or employees of the railroad car-
15 rier.

16 “(C) EXPLANATION.—If a railroad carrier
17 denies an application under subparagraph (A),
18 the railroad carrier shall include in the notifica-
19 tion required by clause (ii) of such subpara-
20 graph an identification of each reason described
21 in subparagraph (B) for which the railroad car-
22 rier denied the application and an explanation
23 of how such reason for denial applies to the ap-
24 plication.

1 “(3) SCHEDULING.—Following approval of an
2 application under this subsection, the provider shall
3 schedule a date in coordination with the railroad
4 carrier for the placement or modification of the fa-
5 cilities, which placement or modification shall com-
6 mence not later than—

7 “(A) the date that is 30 days after the
8 date of the approval; or

9 “(B) such other date as indicated in the
10 application or mutually agreed upon by the pro-
11 vider and the railroad carrier.

12 “(4) COMPENSATION.—A provider that submits
13 to a railroad carrier an application under this sub-
14 section shall pay the railroad carrier compensation
15 that is equal to the actual costs reasonably and di-
16 rectly incurred by the railroad carrier with respect
17 to—

18 “(A) the application; and

19 “(B) any placement or modification of tele-
20 communications or broadband service facilities
21 carried out pursuant to the application.

22 “(c) PETITION FOR RELIEF.—

23 “(1) IN GENERAL.—

24 “(A) RAILROAD CARRIER.—A railroad car-
25 rier may petition the Commission for relief re-

1 garding the placement or modification by a pro-
2 vider of telecommunications or broadband serv-
3 ice facilities in an area where a public right-of-
4 way intersects with a railroad corridor, or in
5 the right-of-way of the railroad carrier, if the
6 railroad carrier asserts that—

7 “(i) in the case of a placement or
8 modification with respect to which the pro-
9 vider has submitted an application to the
10 railroad carrier under subsection (b), the
11 amount of compensation that the provider
12 proposes to pay under paragraph (4) of
13 such subsection is less than the actual
14 costs required to be paid under such para-
15 graph;

16 “(ii) the scope of the placement or
17 modification exceeds the scope described in
18 the notification submitted by the provider
19 under subsection (a) or the application
20 submitted by the provider under subsection
21 (b) (as the case may be) with respect to
22 the placement or modification; or

23 “(iii) the provider has otherwise failed
24 to comply with this section or a regulation
25 promulgated under this section.

1 “(B) PROVIDER.—

2 “(i) IN GENERAL.—A provider may
3 petition the Commission for relief regard-
4 ing the placement or modification by the
5 provider of telecommunications or
6 broadband service facilities in an area
7 where a public right-of-way intersects with
8 a railroad corridor, or in the right-of-way
9 of a railroad carrier, if the provider asserts
10 that the relevant railroad carrier has—

11 “(I) wrongfully obstructed or de-
12 layed the placement or modification;

13 “(II) requested payment above
14 the actual costs required to be paid
15 under subsection (b)(4); or

16 “(III) otherwise failed to comply
17 with this section or a regulation pro-
18 mulgated under this section.

19 “(ii) TIMING.—In the case of a place-
20 ment or modification with respect to which
21 a provider has submitted an application to
22 a railroad carrier under subsection (b), the
23 provider may not file a petition for relief
24 under clause (i) with respect to the place-

1 ment or modification before the earlier
2 of—

3 “(I) the date on which the rail-
4 road carrier notifies the provider of
5 the approval or denial of the applica-
6 tion; and

7 “(II) the day after the date that
8 is 60 days after the date on which the
9 railroad carrier receives the applica-
10 tion.

11 “(2) ADJUDICATION.—

12 “(A) JURISDICTION.—The Commission
13 shall be the sole Federal agency with jurisdic-
14 tion to hear and resolve a petition filed under
15 paragraph (1).

16 “(B) FINDINGS.—In adjudicating a peti-
17 tion filed under paragraph (1), the Commission
18 may make any necessary findings of fact or de-
19 terminations.

20 “(C) USE OF EXPERTS.—

21 “(i) IN GENERAL.—In adjudicating a
22 petition filed under paragraph (1), the
23 Commission may employ experts to advise
24 the Commission with respect to—

1 “(I) examining locations, plans,
2 specifications, and descriptions of
3 equipment and methods proposed to
4 be employed;

5 “(II) hearing any objections and
6 considering any modifications that the
7 railroad carrier or provider submits;

8 “(III) rejecting, approving, or
9 modifying proposed plans and speci-
10 fications; and

11 “(IV) technical, economic, and
12 other matters concerning the place-
13 ment or modification.

14 “(ii) REIMBURSEMENT.—The party
15 against which the Commission rules on an
16 issue with respect to which an expert em-
17 ployed by the Commission under clause (i)
18 renders services under such clause shall re-
19 imburse the Commission for the cost of
20 such services.

21 “(iii) DEPOSIT OF COLLECTIONS.—
22 Amounts received to reimburse the Com-
23 mission for the cost of services rendered by
24 an expert employed under clause (i) shall
25 be deposited in, and credited to, the ac-

1 count through which funds were made
2 available to pay such cost.

3 “(iv) AUTHORITY.—The Commission
4 may employ experts under clause (i) pursu-
5 ant to section 3109(b) of title 5, United
6 States Code.

7 “(D) COORDINATION WITH FEDERAL RAIL-
8 ROAD ADMINISTRATION.—In adjudicating a pe-
9 tition filed under paragraph (1), the Commis-
10 sion shall coordinate with the Administrator of
11 the Federal Railroad Administration regarding
12 any finding of fact or determination relating to
13 railroad safety.

14 “(E) FINAL ORDER.—

15 “(i) IN GENERAL.—Not later than 90
16 days after the date on which a petition is
17 filed under paragraph (1), the Commission
18 shall issue a final order regarding the peti-
19 tion in which the Commission may grant
20 such relief as the Commission considers
21 appropriate.

22 “(ii) EXTENSION OF DEADLINE.—

23 “(I) IN GENERAL.—Except as
24 provided in subclause (II), the Com-
25 mission may extend the deadline with

1 respect to a petition under clause (i),
2 as the Commission considers appro-
3 priate.

4 “(II) EXCEPTION.—The Commis-
5 sion may not extend the deadline with
6 respect to a petition under clause (i)
7 on the basis of the coordination re-
8 quired by subparagraph (D).

9 “(d) RESPONSIBILITIES OF PARTIES.—

10 “(1) RAILROAD CARRIERS.—With respect to the
11 placement or modification by a provider of tele-
12 communications or broadband service facilities in an
13 area where a public right-of-way intersects with a
14 railroad corridor, or in the right-of-way of a railroad
15 carrier, the relevant railroad carrier shall—

16 “(A) provide flagging;

17 “(B) take such other protective measures
18 as the railroad carrier determines necessary and
19 appropriate; and

20 “(C) perform any work necessary to imple-
21 ment the placement or modification that the
22 provider is prohibited from performing because
23 of the limitations specified under subsection
24 (e)(2)(D).

1 “(2) PROVIDERS.—With respect to the place-
2 ment or modification by a provider of telecommuni-
3 cations or broadband service facilities in an area
4 where a public right-of-way intersects with a railroad
5 corridor, or in the right-of-way of a railroad carrier,
6 the provider—

7 “(A) is not required to obtain additional
8 insurance for the placement or modification;
9 and

10 “(B) shall—

11 “(i) carry out all aspects of the imple-
12 mentation of the placement or modification
13 (other than any work necessary to imple-
14 ment the placement or modification that
15 the provider is prohibited from performing
16 because of the limitations specified under
17 subsection (e)(2)(D)); and

18 “(ii) ensure that the facilities are con-
19 structed and operated in accordance
20 with—

21 “(I) all applicable Federal laws
22 and regulations, including those relat-
23 ing to railroad safety; and

1 “(II) any accepted industry
2 standards specified by the Commis-
3 sion.

4 “(e) RULEMAKING.—

5 “(1) IN GENERAL.—Not later than 1 year after
6 the date of the enactment of this section, the Com-
7 mission shall promulgate regulations (which may in-
8 clude regulations applicable to railroad carriers) to
9 implement this section in a manner that—

10 “(A) ensures railroad safety, including by
11 ensuring compliance with all applicable Federal
12 laws and regulations, including those relating to
13 railroad safety;

14 “(B) provides a process for more timely
15 placement or modification of telecommuni-
16 cations or broadband service facilities in emer-
17 gency situations than would otherwise be pro-
18 vided for under this section;

19 “(C) prevents substantial interference with
20 or damage to the infrastructure or permanent
21 operations of railroad carriers;

22 “(D) allows for the timely and efficient
23 placement and modification of telecommuni-
24 cations or broadband service facilities; and

1 “(E) provides a process for more timely
2 placement or modification of telecommuni-
3 cations or broadband service facilities in rail-
4 road carrier crossings that are discontinued or
5 abandoned than would otherwise be provided
6 for under this section.

7 “(2) MATTERS TO BE INCLUDED.—In the regu-
8 lations promulgated under paragraph (1), the Com-
9 mission shall—

10 “(A) establish standards and procedures
11 for determining whether the reasons for denial
12 under clauses (i) and (ii) of subsection
13 (b)(2)(B) are met;

14 “(B) establish standards and procedures
15 for determining actual costs under subsection
16 (b)(4);

17 “(C) establish standards and procedures
18 for adjudicating petitions for relief under sub-
19 section (c), including with respect to reimburse-
20 ment of the Commission for the cost of services
21 rendered by experts employed under subsection
22 (c)(2)(C);

23 “(D) specify any limitations on the loca-
24 tions within an area where a public right-of-way
25 intersects with a railroad corridor, or within the

1 right-of-way of a railroad carrier, where a pro-
2 vider may perform work relating to the place-
3 ment or modification of telecommunications or
4 broadband service facilities, or on the types of
5 such work that a provider may perform within
6 such an area or right-of-way, in order to ensure
7 railroad safety and to prevent substantial inter-
8 ference with or damage to the infrastructure or
9 permanent operations of railroad carriers; and

10 “(E) otherwise establish standards and
11 procedures and define terms as necessary to im-
12 plement this section.

13 “(3) COORDINATION WITH FEDERAL RAILROAD
14 ADMINISTRATION.—In promulgating regulations
15 under paragraph (1), the Commission shall coordi-
16 nate with the Administrator of the Federal Railroad
17 Administration regarding any matter relating to rail-
18 road safety.

19 “(f) MEMORANDUM OF UNDERSTANDING.—Not later
20 than 60 days after the date of the enactment of this sec-
21 tion, the Commission and the Administrator of the Fed-
22 eral Railroad Administration shall enter into a memo-
23 randum of understanding to work cooperatively to ensure
24 that the safety concerns of railroad carriers and users of
25 public rights-of-way are addressed in the adjudication of

1 petitions filed under subsection (c) and the promulgation
2 of regulations under subsection (e).

3 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion, including any regulations promulgated under sub-
5 section (e), may be construed as establishing, eliminating,
6 or modifying an agreement covered by the Railway Labor
7 Act (45 U.S.C. 151 et seq.) between a railroad carrier and
8 a labor organization representing a class or craft of em-
9 ployees of such railroad carrier.

10 “(h) DEFINITIONS.—In this section:

11 “(1) BROADBAND SERVICE.—The term
12 ‘broadband service’ has the meaning given the term
13 ‘broadband internet access service’ in section 8.1(b)
14 of title 47, Code of Federal Regulations (or any suc-
15 cessor regulation).

16 “(2) PROVIDER.—The term ‘provider’ means a
17 provider of telecommunications service or broadband
18 service.

19 “(3) PUBLIC RIGHT-OF-WAY.—The term ‘public
20 right-of-way’ means a public street, highway, route,
21 or road (as designated by the Federal Government
22 or a State or local government), including—

23 “(A) any railroad installation listed in the
24 National Highway-Rail Crossing Inventory of
25 the Department of Transportation as an over

1 (at grade), under (subgrade), longitudinal (par-
2 allel), or transverse (crossing) installation; and

3 “(B) a private crossing with public access
4 listed in the National Highway-Rail Crossing
5 Inventory of the Department of Transportation.

6 “(4) RAILROAD CARRIER.—The term ‘railroad
7 carrier’ has the meaning given such term in section
8 20102 of title 49, United States Code.

9 “(5) TELECOMMUNICATIONS OR BROADBAND
10 SERVICE FACILITIES.—The term ‘telecommuni-
11 cations or broadband service facilities’—

12 “(A) means facilities used to provide or
13 support the provision of any telecommuni-
14 cations service or broadband service; and

15 “(B) includes facilities described in sub-
16 paragraph (A) that are used to provide or sup-
17 port the provision of other services.”.

