

# HOUSE BILL No. 1318

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1; IC 14-8-2-294.5; IC 14-18-10-2.

**Synopsis:** Communications services and providers. Eliminates the requirement that a communications service provider allow a physical connection by other providers to its system. Establishes a uniform statewide procedure for applications for and issuance of permits for the construction and modification of structures and facilities for the provision of wireless communications service. Defines "utility" for purposes of IC 14-18-10 (the law concerning utility easements) to include a communications service provider. Provides that the director of the department of natural resources may not impose a charge to issue a permit to erect or construct a utility line upon or across a public highway right-of-way that passes through state land.

**Effective:** July 1, 2015.

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January 13, 2015, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

# HOUSE BILL No. 1318



A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-2-1, AS AMENDED BY P.L.27-2006,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 1. (a) Except as provided in section 1.1 of this  
4 chapter, "public utility", as used in this chapter, means every  
5 corporation, company, partnership, limited liability company,  
6 individual, association of individuals, their lessees, trustees, or  
7 receivers appointed by a court, that may own, operate, manage, or  
8 control any plant or equipment within the state for the:  
9 (1) conveyance of telegraph or telephone messages;  
10 (2) production, transmission, delivery, or furnishing of heat, light,  
11 water, or power; or  
12 (3) collection, treatment, purification, and disposal in a sanitary  
13 manner of liquid and solid waste, sewage, night soil, and  
14 industrial waste.  
15 The term does not include a municipality that may acquire, own, or



- 1 operate any of the foregoing facilities.
- 2 (b) "Municipal council", as used in this chapter, means the  
3 legislative body of any town or city in Indiana wherein the property of  
4 the public utility or any part thereof is located.
- 5 (c) "Municipality", as used in this chapter, means any city or town  
6 of Indiana.
- 7 (d) "Rate", as used in this chapter, means every individual or joint  
8 rate, fare, toll, charge, rental, or other compensation of any utility or  
9 any two (2) or more such individual or joint rates, fares, tolls, charges,  
10 rentals, or other compensation of any utility or any schedule or tariff  
11 thereof, but nothing in this subsection shall give the commission any  
12 control, jurisdiction, or authority over the rate charged by a municipally  
13 owned utility except as in this chapter expressly provided.
- 14 (e) "Service" is used in this chapter in its broadest and most  
15 inclusive sense and includes not only the use or accommodation  
16 afforded consumers or patrons but also any product or commodity  
17 furnished by any public or other utility and the plant, equipment,  
18 apparatus, appliances, property, and facility employed by any public or  
19 other utility in performing any service or in furnishing any product or  
20 commodity and devoted to the purposes in which such public or other  
21 utility is engaged and to the use and accommodation of the public.
- 22 (f) "Commission", as used in this chapter, means the commission  
23 created by IC 8-1-1-2.
- 24 (g) "Utility", as used in this chapter, means every plant or equipment  
25 within the state used for:
- 26 (1) the conveyance of telegraph and telephone messages;  
27 (2) the production, transmission, delivery, or furnishing of heat,  
28 light, water, or power, either directly or indirectly to the public;  
29 or  
30 (3) collection, treatment, purification, and disposal in a sanitary  
31 manner of liquid and solid waste, sewage, night soil, and  
32 industrial waste.
- 33 The term does not include a municipality that may acquire, own, or  
34 operate facilities for the collection, treatment, purification, and disposal  
35 in a sanitary manner of liquid and solid waste, sewage, night soil, and  
36 industrial waste. A warehouse owned or operated by any person, firm,  
37 limited liability company, or corporation engaged in the business of  
38 operating a warehouse business for the storage of used household  
39 goods is not a public utility within the meaning of this chapter.
- 40 (h) "Municipally owned utility", as used in this chapter, includes  
41 every utility owned or operated by a municipality.
- 42 (i) "Indeterminate permit", as used in this chapter, means every



1 grant, directly or indirectly from the state, to any corporation, company,  
 2 partnership, limited liability company, individual, association of  
 3 individuals, their lessees, trustees, or receivers appointed by a court, of  
 4 power, right, or privilege to own, operate, manage, or control any plant  
 5 or equipment, or any part of a plant or equipment, within this state, for  
 6 the:

7 (1) production, transmission, delivery, or furnishing of heat, light,  
 8 water, or power, either directly or indirectly to or for the public;

9 (2) collection, treatment, purification, and disposal in a sanitary  
 10 manner of liquid and solid waste, sewage, night soil, and  
 11 industrial waste; or

12 (3) furnishing of facilities for the transmission of intelligence by  
 13 electricity between points within this state;

14 which shall continue in force until such time as the municipality shall  
 15 exercise its right to purchase, condemn, or otherwise acquire the  
 16 property of such public utility, as provided in this chapter, or until it  
 17 shall be otherwise terminated according to law.

18 **(j) "Communications service provider" has the meaning set**  
 19 **forth in IC 8-1-2.6-13.**

20 SECTION 2. IC 8-1-2-1.1, AS ADDED BY P.L.27-2006, SECTION  
 21 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 22 2015]: Sec. 1.1. A person or an entity that:

23 (1) transmits communications through Internet Protocol enabled  
 24 ~~retail~~ services, including:

25 (A) voice;

26 (B) data;

27 (C) video; or

28 (D) any combination of voice, data, and video  
 29 communications; or

30 (2) provides the necessary software, hardware, transmission  
 31 service, or transmission path for communications described in  
 32 subdivision (1);

33 is not a public utility solely by reason of engaging in any activity  
 34 described in subdivisions (1) through (2).

35 SECTION 3. IC 8-1-2-5 IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Every public utility, ~~and~~  
 37 **every communications service provider**, every municipality, and  
 38 every person, association, limited liability company, or corporation  
 39 having tracks, conduits, subways, poles, or other equipment on, over,  
 40 or under any street or highway shall for a reasonable compensation,  
 41 permit the use of the same by any other public utility **or**  
 42 **communications service provider** or by a municipality owning or



1 operating a utility, whenever public convenience and necessity require  
2 such use, and such use will not result in irreparable injury to the owner  
3 or other users of such equipment, nor in any substantial detriment to  
4 the service to be rendered by such owners or other users. Every public  
5 utility for the conveyance of telephone messages shall permit a physical  
6 connection or connections to be made, and telephone service to be  
7 furnished, before any telephone system operated by it, and the  
8 telephone toll line operated by another such public utility or between  
9 its toll line and the telephone system of another such public utility, or  
10 between its toll line and the toll line of another such public utility, or  
11 between its telephone system and the telephone system of another such  
12 public utility, whenever public convenience and necessity require such  
13 physical connection or connections and such physical connection or  
14 connections will not result in irreparable injury to the owner or other  
15 users of the facilities of such public utilities, nor in any substantial  
16 detriment to the service to be rendered by such public utilities. If any  
17 prospective consumers or patrons of any public utility for the  
18 production, transmission, delivery, or furnishing of light or power,  
19 living in territory outside of cities and towns, and within not to exceed  
20 one-half (1/2) mile of the transmission line of such utility, shall agree  
21 to and shall construct and install the necessary equipment, in  
22 compliance with plans and specifications prescribed by such utility,  
23 such public utility shall permit the necessary physical connection or  
24 connections to be made and service to be furnished to the person or  
25 persons who have constructed and installed such equipment. The term  
26 "physical connection", as used in this section, shall mean such number  
27 of trunk lines or complete wire circuits and connections as may be  
28 required to furnish reasonably adequate telephone service between  
29 such public utilities.

30 (b) In case of failure to agree upon such use or the conditions or  
31 compensations for such use, or in case of failure to agree upon such  
32 physical connection or connections, or the terms and conditions upon  
33 which the same shall be made, any public utility or any person,  
34 association, limited liability company, or corporation interested may  
35 apply to the commission and if after investigation the commission shall  
36 ascertain that public convenience and necessity require such use or  
37 such physical connections, and that such use or such physical  
38 connection or connections would not result in irreparable injury to the  
39 owner or other users of such equipment or the facilities of such public  
40 utilities, nor in any substantial detriment to the service to be rendered  
41 by such owner or other public utilities or other users of such equipment  
42 or facilities, it shall by order direct that such use be permitted and



1 prescribe reasonable conditions and compensations for such joint use  
 2 and that such physical connection or connections be made and  
 3 determine how and within what time such connection or connections  
 4 shall be made, and by whom the expense of making and maintaining  
 5 such connection or connections shall be paid.

6 (c) Such use so ordered shall be permitted, and such physical  
 7 connection or connections so ordered shall be made and such  
 8 conditions and compensation so prescribed for such use, and such  
 9 terms and conditions upon which such physical connection or  
 10 connections shall be made, as so determined, shall be lawful conditions  
 11 and compensations for such use, and the lawful terms and conditions  
 12 upon which such physical connection or connections shall be made, to  
 13 be observed, followed, and paid, subject to recourse to the courts upon  
 14 the complaint of any interested party as provided in sections 73 and 74  
 15 of this chapter and IC 8-1-3, and such statute so far as applicable shall  
 16 apply to any action arising on such complaint so made. Any such order  
 17 of the commission may be from time to time revised by the commission  
 18 upon application of any interested party or upon its own motion.

19 SECTION 4. IC 8-1-2.6-1.1, AS AMENDED BY P.L.1-2007,  
 20 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2015]: Sec. 1.1. The commission shall not exercise  
 22 jurisdiction over:

- 23 (1) advanced services (as defined in 47 CFR 51.5);
- 24 (2) broadband service, however defined or classified by the  
 25 Federal Communications Commission;
- 26 (3) information service (as defined in 47 U.S.C. 153(20));
- 27 (4) Internet Protocol enabled ~~retail~~ services:
  - 28 (A) regardless of how the service is classified by the Federal  
 29 Communications Commission; and
  - 30 (B) except as expressly permitted under IC 8-1-2.8;
- 31 (5) commercial mobile service (as defined in 47 U.S.C. 332); or
- 32 (6) any service not commercially available on March 28, 2006.

33 SECTION 5. IC 8-1-32.3 IS ADDED TO THE INDIANA CODE  
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2015]:

36 **Chapter 32.3. Permits for Wireless Service Providers**

37 **Sec. 1. As used in this chapter, "antenna" means any**  
 38 **communications equipment that transmits and receives**  
 39 **electromagnetic radio signals used in the provision of wireless**  
 40 **communications service.**

41 **Sec. 2. As used in this chapter, "base station" means a station**  
 42 **located at a specific site that is authorized to communicate with**



1 mobile stations. The term includes all radio transceivers, antennas,  
2 coaxial cables, power supplies, and other electronics associated  
3 with a station.

4 Sec. 3. As used in this chapter, "collocation" means the  
5 placement or installation of wireless facilities on existing  
6 structures, including electrical transmission towers, water towers,  
7 and other buildings or structures. The term includes the placement,  
8 replacement, or modification of wireless facilities within an  
9 approved equipment compound.

10 Sec. 4. As used in this chapter, "electrical transmission tower"  
11 means a structure that physically supports high voltage overhead  
12 power lines. The term does not include a utility pole.

13 Sec. 5. As used in this chapter, "equipment compound" means  
14 the area that:

- 15 (1) surrounds or is near the base of a wireless support  
16 structure; and
- 17 (2) encloses wireless facilities.

18 Sec. 6. As used in this chapter, "existing structure" does not  
19 include a utility pole.

20 Sec. 7. As used in this chapter, "permit authority" means a unit,  
21 a board, a commission, or any other governing body that makes  
22 legislative or administrative decisions concerning the construction,  
23 installation, modification, or siting of wireless facilities or wireless  
24 support structures. The term does not include a court or other  
25 judicial body that reviews decisions or rulings made by a permit  
26 authority.

27 Sec. 8. (a) As used in this chapter, "small cell facility" means:

- 28 (1) a personal wireless service facility (as defined in 47 U.S.C.  
29 332(c)(7)(C)(ii)); or
- 30 (2) a wireless service facility that satisfies both of the  
31 following requirements:

- 32 (A) Each antenna that is part of the wireless service facility  
33 has a volume of three (3) cubic feet or less.
- 34 (B) The primary equipment enclosure located within the  
35 facility has a volume of seventeen (17) cubic feet or less.

36 (b) For purposes of subsection (a)(2)(B), the volume of the  
37 primary equipment enclosure does not include the following  
38 equipment that is located outside the primary equipment  
39 enclosure:

- 40 (1) Electric meters.
- 41 (2) Concealment equipment.
- 42 (3) Telecommunications demarcation boxes.



- 1           **(4) Ground based enclosures.**  
 2           **(5) Back up power systems.**  
 3           **(6) Grounding equipment.**  
 4           **(7) Power transfer switches.**  
 5           **(8) Cut off switches.**  
 6           **Sec. 9. As used in this chapter, "small cell network" means a**  
 7 **collection of interrelated small cell facilities designed to deliver**  
 8 **wireless service.**  
 9           **Sec. 10. (a) As used in this chapter, "substantial modification of**  
 10 **a wireless support structure" means the mounting of a wireless**  
 11 **facility on a wireless support structure in a manner that:**  
 12           **(1) increases the height of the wireless support structure by**  
 13 **the greater of:**  
 14               **(A) ten percent (10%) of the original height of the wireless**  
 15 **support structure; or**  
 16               **(B) twenty (20) feet;**  
 17           **(2) adds an appurtenance to the wireless support structure**  
 18 **that protrudes horizontally from the wireless support**  
 19 **structure more than the greater of:**  
 20               **(A) twenty (20) feet; or**  
 21               **(B) the width of the wireless support structure at the**  
 22 **location of the appurtenance; or**  
 23           **(3) increases the square footage of the equipment compound**  
 24 **in which the wireless facility is located by more than two**  
 25 **thousand five hundred (2,500) square feet.**  
 26           **(b) The term does not include the following:**  
 27               **(1) Increasing the height of a wireless support structure to**  
 28 **avoid interfering with an existing antenna.**  
 29               **(2) Increasing the diameter or area of a wireless support**  
 30 **structure to:**  
 31                   **(A) shelter an antenna from inclement weather; or**  
 32                   **(B) connect an antenna to the wireless support structure by**  
 33 **cable.**  
 34           **Sec. 11. As used in this chapter, "utility pole" means a structure**  
 35 **that is:**  
 36               **(1) owned or operated by:**  
 37                   **(A) a public utility;**  
 38                   **(B) a communications service provider;**  
 39                   **(C) a municipality;**  
 40                   **(D) an electric membership corporation; or**  
 41                   **(E) a rural electric cooperative; and**  
 42               **(2) designed and used to:**



- 1           (A) carry lines, cables, or wires for telephony, cable  
2           television, or electricity; or  
3           (B) provide lighting.

4           **Sec. 12. As used in this chapter, "wireless facility" means the set**  
5 **of equipment and network components necessary to provide**  
6 **wireless communications service. The term does not include a**  
7 **wireless support structure.**

8           **Sec. 13. As used in this chapter, "wireless support structure"**  
9 **means a freestanding structure designed to support wireless**  
10 **facilities. The term does not include a utility pole.**

11           **Sec. 14. This chapter applies to permits issued by a permit**  
12 **authority for the following:**

- 13           (1) Construction of a new wireless support structure.  
14           (2) Substantial modification of a wireless support structure.  
15           (3) Collocation of wireless facilities on an existing structure.

16           **Sec. 15. A permit authority may not do the following when**  
17 **reviewing an application for or issuing a permit:**

- 18           (1) Require an applicant to submit information about or  
19           evaluate an applicant's business decisions with respect to the  
20           applicant's designed service, customer demand, service  
21           quality, or desired signal strength to a particular location.  
22           (2) Base its evaluation or decision on:  
23           (A) the availability of locations for the placement of  
24           wireless support structures or wireless facilities other than  
25           the location or locations included in an application; or  
26           (B) the merits of collocation as compared to new  
27           construction.  
28           (3) Dictate the type of wireless facilities, infrastructure, or  
29           technology to be used by the applicant.  
30           (4) Require an applicant to construct a distributed antenna  
31           system if the application does not propose to construct a  
32           distributed antenna system.  
33           (5) Require the removal of existing wireless support  
34           structures or wireless facilities.  
35           (6) Reject an application based solely on perceived or alleged  
36           environmental effects of radio frequency emissions that  
37           otherwise comply with 47 U.S.C. 332(c)(7)(B)(iv).  
38           (7) Impose restrictions or regulations with respect to  
39           navigable airspace that exceed or conflict with restrictions  
40           and regulations of the Federal Aviation Administration.  
41           (8) Prohibit the placement of emergency power systems that  
42           comply with applicable federal and state environmental laws



1 and regulations.

2 **(9) Require an applicant to provide the permit authority with:**

3 **(A) space on or near a wireless support structure; or**

4 **(B) wireless communications service;**

5 **at below market rates.**

6 **(10) Limit the duration of a permit.**

7 **(11) Consider the ownership of any property, structure, or**  
 8 **tower when establishing rules or procedures for siting**  
 9 **wireless facilities or evaluating applications.**

10 **(12) Require siting of a wireless support structure on property**  
 11 **owned or controlled by a permit authority.**

12 **(13) Require indemnification by the applicant.**

13 **(14) Impose surety requirements, including bonds, escrow**  
 14 **deposits, or letters of credit, to ensure the removal of**  
 15 **abandoned or unused facilities unless the surety requirements**  
 16 **are:**

17 **(A) similar to requirements imposed by the authority on**  
 18 **persons that apply for permits for other types of**  
 19 **commercial development or land use; and**

20 **(B) competitively neutral, nondiscriminatory, reasonable**  
 21 **in amount, and consistent with the historical record for**  
 22 **local facilities and structures that are abandoned.**

23 **Sec. 16. A permit authority may not:**

24 **(1) impose environmental testing, sampling, or monitoring**  
 25 **requirements or other compliance measures for radio**  
 26 **frequency emissions on wireless facilities other than those**  
 27 **permitted or required under 47 CFR 1.1307(b)(1); or**

28 **(2) establish or enforce regulations or procedures for:**

29 **(A) radio frequency signal strength; or**

30 **(B) adequacy of service quality.**

31 **Sec. 17. The minimum height of a wireless structure is two**  
 32 **hundred (200) feet.**

33 **Sec. 18. A permit authority may not use any of the following as**  
 34 **the sole reason to deny an application:**

35 **(1) Aesthetic concerns.**

36 **(2) Height of a wireless support structure.**

37 **(3) The presence or absence of lighting on a wireless support**  
 38 **structure.**

39 **Sec. 19. (a) A permit authority may not discriminate against an**  
 40 **applicant and must treat an applicant in a manner that is**  
 41 **consistent with the manner in which the permit authority treats**  
 42 **other applicants for similar permits with respect to the following:**



- 1           (1) Setback and zoning requirements.
- 2           (2) Tax incentives.
- 3           (3) Access to public rights-of-way, infrastructure, utility poles,
- 4           river and bridge crossings, and other physical assets.
- 5           (4) Fees for the submission, review, processing, or approval of
- 6           an application or the issuance of a permit.
- 7           (b) Notwithstanding subsection (a), a permit authority may not
- 8           impose a setback or fall zone requirement for a wireless support
- 9           structure that is designed to collapse within an area that is smaller
- 10          than the setback or fall zone requirement unless the permit
- 11          authority demonstrates to the satisfaction of the applicant that the
- 12          engineering certification for the wireless support structure is
- 13          flawed.
- 14          Sec. 20. This chapter does not:
- 15               (1) affect the ability of a permit authority to exercise zoning,
- 16               land use, planning, or permitting authority otherwise allowed
- 17               under law with respect to the siting of new wireless support
- 18               structures; or
- 19               (2) exempt an applicant from complying with applicable laws
- 20               and ordinances concerning land use.
- 21          Sec. 21. (a) The following may apply for a permit under this
- 22          chapter on a form and in the manner prescribed by the
- 23          appropriate permit authority:
- 24               (1) A person that provides wireless communications service.
- 25               (2) A person that owns or otherwise makes available
- 26               infrastructure required for wireless communications service.
- 27          (b) An application for a permit must include the following:
- 28               (1) The name, business address, and point of contact for the
- 29               applicant.
- 30               (2) The location of the proposed or affected wireless support
- 31               structure or wireless facility.
- 32          Sec. 22. An application for a permit to construct a new wireless
- 33          support structure must include only the following:
- 34               (1) All information required by section 21 of this chapter.
- 35               (2) A construction plan that describes the proposed wireless
- 36               support structure and all equipment and network
- 37               components, including antennas, transmitters, receivers, base
- 38               stations, power supplies, cabling, and related equipment.
- 39               (3) Evidence supporting the choice of location for the
- 40               proposed wireless support structure, including a sworn
- 41               statement from the individual who is responsible for the
- 42               choice of location that collocation of the proposed wireless



1 support structure was not a viable option because collocation:

2 (A) would not result in the same wireless service  
3 functionality, coverage, and capacity;

4 (B) is technically infeasible; or

5 (C) is an economic burden to the applicant.

6 An application that does not include the evidence described in  
7 subdivision (3) is incomplete and may be denied.

8 Sec. 23. An application for a permit for substantial modification  
9 of a wireless support structure must include only the following:

10 (1) All information required by section 21 of this chapter.

11 (2) A construction plan that describes the proposed  
12 modifications to the wireless support structure and all  
13 equipment and network components, including antennas,  
14 transmitters, receivers, base stations, power supplies, cabling,  
15 and related equipment.

16 Sec. 24. (a) An application for a permit for collocation must  
17 include only the following:

18 (1) All information required by section 21 of this chapter.

19 (2) Evidence of conformance with applicable building permit  
20 requirements.

21 (b) An application for a permit for collocation:

22 (1) is not required to comply with zoning or land use  
23 requirements; and

24 (2) is not subject to public hearing.

25 Sec. 25. (a) An application that contains all the information  
26 required under this chapter is considered complete. A permit  
27 authority shall review an application within thirty (30) days of its  
28 receipt to determine if the application is complete. If a permit  
29 authority determines that an application is not complete, the  
30 permit authority shall notify the applicant in writing of all  
31 deficiencies in the application and allow the applicant to resubmit  
32 the application within thirty (30) days. A permit authority shall  
33 review a resubmitted application within twenty (20) days of its  
34 receipt to determine if the resubmitted application is complete.

35 (b) Not more than thirty (30) days after receiving a complete  
36 application, a permit authority shall:

37 (1) review the application to determine if it complies with  
38 applicable laws and ordinances governing land use and  
39 zoning; and

40 (2) notify the applicant in writing whether the application is  
41 approved or denied.

42 If a permit authority does not issue a written notice, the application



1 is considered approved.

2 (c) A notice of denial under subsection (b)(2) must include  
3 evidence supporting the denial.

4 Sec. 26. A permit authority shall establish guidelines to protect  
5 any confidential or proprietary information disclosed in an  
6 application.

7 Sec. 27. A permit authority may not require or regulate the  
8 installation, location, or use of wireless service facilities on utility  
9 poles.

10 Sec. 28. A permit authority may allow an applicant to submit a  
11 single consolidated application for multiple small cell facilities that  
12 are located within the permit authority's jurisdiction and comprise  
13 a single small cell network. The permit authority may issue a single  
14 permit for the small cell network rather than multiple permits for  
15 each small cell facility.

16 Sec. 29. A permit authority may not impose a moratorium or  
17 otherwise delay the approval or issuance of applications or permits  
18 for the construction of new wireless support structures, the  
19 substantial modification of existing wireless support structures, or  
20 collocations.

21 Sec. 30. (a) A permit authority shall offer a successful applicant  
22 a lease to construct or locate an approved wireless support  
23 structure, wireless facility, or small cell network on property that  
24 is owned or otherwise controlled by the permit authority. A lease  
25 must be:

26 (1) for at least twenty-five (25) years; and

27 (2) consistent with the fair market value for similar property.

28 (b) If a permit authority and an applicant are unable to agree on  
29 the fair market value or the method to calculate the fair market  
30 value, a panel of appraisers shall be appointed as follows:

31 (1) One (1) appraiser appointed by, and at the expense of, the  
32 permit authority.

33 (2) One (1) appraiser appointed by, and at the expense of, the  
34 applicant.

35 (3) One (1) appraiser appointed jointly by the appraisers  
36 described in subdivisions (1) and (2). The expense of this  
37 appraiser is shared evenly between the permit authority and  
38 the applicant.

39 (c) Each appraiser appointed under subsection (b) shall conduct  
40 an independent appraisal of the property that is the subject of the  
41 lease. The panel shall set the fair market value at the average of the  
42 highest and lowest appraisals. However, if the average differs from



1 the appraisal of the appraiser appointed under subsection (b)(3) by  
 2 more than ten percent (10%), the panel shall set the fair market  
 3 value at the appraisal of the appraiser appointed under subsection  
 4 (b)(3).

5 (d) An appraisal process under subsection (c) must be completed  
 6 not more than one hundred fifty (150) days after an offer is made  
 7 under subsection (a).

8 **Sec. 31. An applicant may:**

9 (1) bring an action for a violation of this chapter in any court  
 10 with jurisdiction; and

11 (2) seek recovery of litigation costs and attorney's fees.

12 SECTION 6. IC 8-1-32.5-14, AS ADDED BY P.L.27-2006,  
 13 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2015]: Sec. 14. A communications service provider that holds  
 15 a certificate issued under this chapter:

16 (1) is exempt from local franchises and related fees; and

17 (2) enjoys access to public rights-of-way;

18 to the same extent as a communications service provider that holds a  
 19 certificate of territorial authority or an indeterminate permit issued  
 20 under IC 8-1-2 before July 1, 2009.

21 SECTION 7. IC 14-8-2-294.5 IS ADDED TO THE INDIANA  
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2015]: **Sec. 294.5. "Utility", for purposes of**  
 24 **IC 14-18-10, includes a communications service provider (as**  
 25 **defined in IC 8-1-32.5-4).**

26 SECTION 8. IC 14-18-10-2 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. The director may  
 28 issue to any person, without charge, a permit to erect or construct a  
 29 utility, telephone, or telegraph line as described in section 1 of this  
 30 chapter under the rules and restrictions that the director considers  
 31 necessary:

32 (1) for the protection and preservation of the natural scenic  
 33 conditions of the land; or

34 (2) to prevent the line from interfering with or obstructing the use  
 35 and enjoyment of the property by the public.

36 **However, the director shall not impose a charge to issue a permit**  
 37 **to erect or construct a utility, telephone, or telegraph line as**  
 38 **described in section 1(5) of this chapter.**

