

SENATE BILL NO. 10

BY SENATOR MIZELL AND REPRESENTATIVES ADAMS, AMEDEE, BACALA, BAGLEY, BOURRIAQUE, BROWN, BRYANT, BUTLER, CARRIER, GARY CARTER, ROBBY CARTER, WILFORD CARTER, CORMIER, DESHOTEL, DEVILLIER, ECHOLS, EDMONDS, EDMONSTON, EMERSON, FARNUM, FIRMENT, FONTENOT, FREEMAN, FREIBERG, FRIEMAN, GADBERRY, GAINES, GAROFALO, GOUDEAU, GREEN, HARRIS, HODGES, HOLLIS, HORTON, MIKE JOHNSON, TRAVIS JOHNSON, JONES, JORDAN, KERNER, LACOMBE, LARVADAIN, LYONS, MCCORMICK, MCFARLAND, MCKNIGHT, MCMAHEN, MIGUEZ, MINCEY, MOORE, NELSON, CHARLES OWEN, PIERRE, RISER, ROMERO, SCHAMERHORN, SCHEXNAYDER, SELDERS, STEFANSKI, THOMAS, THOMPSON, WHEAT, WHITE AND WRIGHT

1 AN ACT

2 To enact R.S. 12:430.1 and 430.2, relative to rural access to broadband high-speed internet
3 access; to provide relative to servitudes; to provide for reporting by cooperatives
4 regarding broadband high-speed internet access; to provide for reporting by certain
5 telecommunications associations regarding broadband high-speed internet access;
6 to provide for terms, conditions, and procedures; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section. 1. R.S. 12:430.1 and 430.2 are hereby enacted to read as follows:

9 **§430.1. Cooperatives; provision of broadband services; servitudes**

10 **A.(1)(a) Except as provided in Subparagraphs (b) and (c) of this**
11 **Paragraph, a cooperative shall grant permission to a broadband affiliate or a**
12 **broadband service provider to use the electric delivery system of the**
13 **cooperative to provide broadband services. The use of the cooperative's electric**
14 **delivery system for the provision of broadband services by the broadband**
15 **affiliate or a broadband service provider shall not be considered an additional**

1 burden on the property upon which the cooperative's electric delivery system
2 is located and shall not require the broadband affiliate or broadband service
3 provider to obtain the additional consent from anyone having an interest in the
4 property upon which the cooperative's electric delivery system is located.

5 (b) The provisions of Subparagraph (a) of this Paragraph shall not
6 apply to any property owned or controlled by a railroad company operating in
7 the state.

8 (c) Notwithstanding any provision of law to the contrary, a cooperative
9 providing electric service may deny a broadband affiliate or broadband service
10 provider access to its poles, ducts, conduits, or rights-of-way, on a
11 nondiscriminatory basis where there is insufficient capacity and for reasons of
12 safety, reliability, and generally applicable engineering purposes.

13 (2)(a) If a portion of a cooperative's electric delivery system is used by
14 a broadband affiliate or broadband service provider for the purpose of
15 providing broadband services and the landowner of the property on which such
16 portion is located believes his property has been damaged by such use, the
17 landowner may petition the district court in which the property is situated for
18 any damages to which the landowner may be entitled pursuant to law, subject
19 to the provisions of Subparagraph (b) of this Paragraph.

20 (b) A cooperative or its members shall not be liable for any recoverable
21 damages to property awarded by a court pursuant to the provisions of this
22 Subsection, and the damages shall be the sole responsibility of the broadband
23 affiliate or broadband service provider.

24 B. A cooperative shall provide a broadband affiliate, broadband service
25 provider, or broadband operator with nondiscriminatory access to locate its
26 equipment for the provision of broadband services on the cooperative's electric
27 delivery system on just, reasonable, and nondiscriminatory terms, conditions,
28 and rates.

29 C. Any broadband affiliate, broadband service provider, or broadband
30 operator wishing to attach to a cooperative's electric delivery system shall file

1 written notice with the cooperative. The cooperative shall respond to the notice
2 in accordance with the Public Service Commission's General Order dated
3 September 4, 2014, or any subsequent related order.

4 D. A cooperative shall charge a broadband affiliate, broadband service
5 provider, or broadband operator for the construction, installation, operation,
6 use, and maintenance of those parts of its electric delivery system that are used
7 or may be reserved for use by the broadband affiliate, broadband service
8 provider, or broadband operator for the provision of broadband services. Any
9 lease of facilities by a cooperative to a broadband affiliate that includes the use
10 of the cooperative's poles shall include a pole attachment fee to be paid by the
11 broadband affiliate to the cooperative. The fee charged by the cooperative to the
12 broadband affiliate shall be the same amount as the pole attachment fee
13 charged by the cooperative to any other broadband operator.

14 E. A cooperative shall not do any of the following:

15 (1) Use its electric energy sales revenue to subsidize the provision of
16 broadband services to the public by a broadband affiliate or other broadband
17 operator.

18 (2) Allow the installation or operation of a broadband system on its
19 electric delivery system by a broadband affiliate or other broadband operator
20 to diminish the reliability of the electric delivery system.

21 (3) Require any person to purchase broadband services from a
22 broadband affiliate or other broadband operator, as a condition of receiving or
23 continuing to receive electric energy from the cooperative.

24 (4) Disconnect, or threaten to disconnect, electric service to any
25 customer due to the customer's failure to pay for broadband services provided
26 to the customer by a broadband affiliate or other broadband operator.

27 F. A cooperative may make capital investments in a broadband affiliate,
28 issue bonds on behalf of a broadband affiliate, make loans to a broadband
29 affiliate at fair market rate, and enter into loan guarantees for the benefit of a
30 broadband affiliate, all of which may be in such amounts and on such terms as

1 the cooperative determines to be prudent, subject to the requirements
2 established by the Public Service Commission's General Orders dated March
3 18, 1994, and November 13, 1996, or any subsequent related orders.

4 G. As used in this Section:

5 (1) "Broadband affiliate" means any entity that meets all of the following
6 criteria:

7 (a) Is wholly or partially owned by a cooperative.

8 (b) Is formed to own or operate a broadband system or provide
9 broadband high-speed internet services.

10 (2) "Broadband operator" means a broadband service provider that
11 owns or operates a broadband system on a cooperative's electric delivery system
12 with the cooperative's consent.

13 (3) "Broadband service provider" means an entity that provides
14 broadband services to another on a wholesale basis or to an end-use customer
15 on a retail basis.

16 (4) "Broadband services" means any service, using any equipment or
17 technology, including wireline or fixed wireless broadband internet service, that
18 consists of or includes the provision of or connectivity to a high-speed, high-
19 capacity transmission medium meeting the Federal Communications
20 Commission's benchmark of at least twenty-five megabits per second download
21 and three megabits per second upload, or any subsequent benchmark
22 determined by the Federal Communications Commission, that can carry signals
23 from or to multiple sources and that does either of the following:

24 (a) Is used to provide access to the internet.

25 (b) Provides computer processing, information storage, information
26 content or protocol conversion, including any service applications or
27 information service provided over such high-speed access service. As used in
28 this Part, "broadband services" shall also include video services, Voice over
29 Internet Protocol services, wireless services, and internet protocol-enabled
30 services.

1 **(5) "Broadband system" means a facility used to deliver broadband**
2 **internet access service as defined in 47 C.F.R. §8.1 and other broadband**
3 **services.**

4 **(6) "Electric delivery system" means the poles, lines, materials,**
5 **equipment, servitudes, and other facilities or properties used by a cooperative.**

6 **§430.2. Reporting on broadband high-speed internet access**

7 **On March 1, 2021, and every March thereafter, each cooperative, or the**
8 **statewide or trade association of each cooperative, shall submit a written report**
9 **to the Senate Committee on Commerce, Consumer Protection and International**
10 **Affairs and the House Committee on Commerce regarding any impediments to**
11 **providing broadband high-speed internet access to rural residents. The**
12 **information in the report shall include, at a minimum, the number of**
13 **broadband affiliates and broadband service providers who have requested to**
14 **use a cooperative's electric delivery system and the number of broadband**
15 **operators, including any broadband affiliate, who have accessed a cooperative's**
16 **electric delivery system to deploy broadband to rural residents in the state.**

17 **Section 2. On March 1, 2021, and every March thereafter, the Louisiana Cable**
18 **& Telecommunications Association and the Louisiana Telecommunications Association**
19 **shall jointly submit a written report to the Senate Committee on Commerce, Consumer**
20 **Protection and International Affairs and the House Committee on Commerce**
21 **regarding any impediments to providing broadband high-speed internet access or any**
22 **prohibitive requirements to access the cooperative's electric delivery system for the**
23 **purpose of providing broadband in the state. The information in the written report**
24 **shall include, at a minimum, broadband deployment data publicly available from the**
25 **Federal Communications Commission Form 477. Nothing in this Section shall be**
26 **construed to require the disclosure of proprietary or trade secret information by a**
27 **broadband service provider.**

28 Section 3. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____