

HOUSE BILL NO. 337

INTRODUCED BY RIPLEY, ANDERSON, BALES, BLACK, D. BROWN, CURTISS, DOWELL, FUCHS, GALVIN-HALCRO, GOLIE, HEDGES, KASTEN, KEENAN, LINDEEN, MANGAN, MCGEE, MCNUTT, MOOD, PETERSON, ROSS, ROUSH, D. RYAN, SMITH, SPRAGUE, SQUIRES, TESTER, TROPILA, WAGMAN, WITT, FISHER, GLASER, NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE EXPENSE OF MOVING UTILITY WIRES AND POLES WHEN RELOCATING A STRUCTURE ~~MUST~~ BE PAID BY THE PERSON, FIRM, OR CORPORATION MOVING THE STRUCTURE; PROVIDING AN EXCEPTION; REQUIRING A PAYMENT TO THE OWNER OF THE WIRES AND POLES IN ADVANCE OF THE MOVE; AMENDING SECTIONS 69-4-602 AND 69-4-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 69-4-602, MCA, is amended to read:

"69-4-602. ~~Procedure to give required notice~~ Notice of move -- cost estimate. The person, firm, or corporation moving ~~any a~~ a house, building, derrick, or other structure shall give the person, firm, or corporation owning or ~~operating~~ controlling the wires, cables, or poles affected by the movement of a structure, at ~~both their~~ the person's, firm's, or corporation's principal office and ~~their~~ nearest office within the state, not less than 10 days' written notice of the proposed time and place of moving a structure.

(2) The owner of the wires, cables, or poles shall give the mover a written estimate of the total cost of all work related to cutting, raising, or moving the wires or poles or raising the wires or cables or moving the poles, including travel time, at least 3 days prior to the move or within 10 days after receipt of the written notice of the move, whichever time comes sooner.

(3) The estimate of the total cost required under this section must be developed in accordance with the cost schedule filed as provided in subsection (4).

(4) ~~(a) Except as provided in subsection (4)(b), a~~ A public utility, cable television company, or unregulated telecommunications provider with wires, cables, or poles in Montana shall file with the commission, by April 1 of each year, AN APPLICATION FOR APPROVAL OF a cost schedule for labor and equipment for all work

related to cutting or raising wires or cables or moving poles. THE COST SCHEDULE IS EFFECTIVE ON A TEMPORARY BASIS, SUBJECT TO A REBATE AND A SURCHARGE AS PROVIDED IN 69-3-304, 30 DAYS AFTER THE FILING OF A COST SCHEDULE AND PENDING A FINAL ORDER OF THE COMMISSION, UNLESS THE COMMISSION FIRST DETERMINES THAT THE COST SCHEDULE IS ABOVE COST.

~~— (b) An electric or telephone cooperative, as defined in 35-18-102, shall file at the cooperative's main office, by April 1 of each year, a cost schedule for labor and equipment for all work related to cutting or raising wires or cables or moving poles."~~

Section 2. Section 69-4-603, MCA, is amended to read:

"69-4-603. Procedure to accomplish move -- payment of cost. (1) In order to accomplish moving a house, building, derrick, or other structure through an area in which utility wires, cables, or poles or wires impede the movement, it is the duty of the person, firm, or corporation who owns or controls the poles or wires, cables, or poles and who has received the notice required by 69-4-602 to shall furnish competent workers to raise or cut the wires or cables or move the poles as necessary to facilitate moving the house, building, derrick, or other structure.

~~(2) The necessary and reasonable expense of raising or cutting the wires or of moving the poles for utilities subject to the jurisdiction of the public service commission must be fixed and determined by the public service commission on the average cost per line or pole for time and materials expended. These costs and expenses must be reviewed biennially. Except as provided in subsections (4) and (5), the necessary and reasonable expense of raising or cutting the wires or of moving the poles must be shared equally by the person, firm, or corporation owning the structure and the person, firm, or corporation owning or operating the wires, cables, or poles required to be moved.~~

~~— (3) The rates and charges of rural cooperative electric utilities, rural cooperative telephone utilities, and other persons who occupy and use utility or cooperative poles may not exceed the charges established by the public service commission for utilities subject to its jurisdiction. The charges assessed by utilities, other than utilities subject to the jurisdiction of the public service commission, must be apportioned as provided in subsection (2).~~

~~— (4)(2) (a) Except as provided in subsection (4)(b) (2)(b), to facilitate the movement of a house, building, derrick, or other structure, the necessary and reasonable actual costs of raising or cutting wires or cables or moving poles to facilitate the movement of a house, building, derrick, or other structure, OR PREFABRICATED STRUCTURE THAT IS INTENDED TO BE MOVED FROM THE PLACE OF FABRICATION, STORAGE FACILITY, OR DEALER'S LOT,~~

determined in accordance with the schedule filed under 69-4-602, must be paid by the owner of:

- ~~—— (i) a prefabricated structure that is intended to be moved from the place of fabrication; or~~
- ~~—— (ii) the sixth and each subsequent structure that exceeds 25 feet in height while being moved and that is to be moved from a single site. When structures are moved in a group or in a continuous caravan formation and when only a single line cut or movement is necessary, the move must count as only a single-structure move for purposes of this subsection (4)(a)(ii). For the purposes of this subsection (4)(a)(ii), a single site includes but is not limited to a development complex, housing complex, military base, or institutional complex. The whole of an incorporated municipality is not a single site as the term is used in this subsection mover.~~

(b) The necessary and reasonable actual costs of raising or cutting wires or cables or moving poles to facilitate the movement of a structure, determined in accordance with the schedule filed under 69-4-602, must be shared equally by the mover and the owner of the wires, cables, or poles if the structure is:

- ~~—— (i) owned by a person for occupancy or use by that person must be shared equally as provided in subsection (2);~~
- ~~—— (ii) when loaded, a height of less than 23 feet; and~~
- ~~—— (iii) not moved from the place of fabrication, a storage facility, or a dealer's lot.~~

(5) (a) A person, firm, or corporation who owns or moves a house, building, derrick, or other structure may not raise, cut, or in any way interfere with any poles or wires

(3) A mover may not raise, cut, or in any way interfere with wires, cables, or poles unless the person, firm, or corporation who owns or controls the poles or wires, cables, or poles refuses, after having been notified as required by 69-4-602, to raise or cut the wires or cables or move the poles.

(b) ~~When the person who owns or controls the poles or wires refuses to raise or cut the wires or move the poles, the person, firm, or corporation who owns or moves the house, building, derrick, or other structure shall ensure that only competent and experienced workers raise or cut the wires or move the poles:~~

- ~~—— (c) The following procedure must be followed:~~
- ~~—— (i) The necessary and reasonable expense incurred by the owner or mover of the house, building, derrick, or other structure as a result of raising or cutting the wires or moving the poles must be paid by the owners of the poles or wires handled:~~
- ~~—— (ii) The work of raising or cutting the wires or moving the poles must be done in a careful manner:~~
- ~~—— (iii) The poles and wires must be promptly replaced and any damage to the poles or wires must be promptly repaired:~~

(4) The mover shall make a prepayment of a portion of the total cost estimated under 69-4-602 in

advance of the move as follows:

(a) if the structure is moved through or out of the service territory of the owner of the wires, cables, or poles, 100% of the mover's share pursuant to subsection (2); or

(b) if the structure is delivered to a place within the service territory of the owner of the wires, cables, or poles, 50% of the mover's share pursuant to subsection (2).

(5) The owner of the wires, cables, or poles may waive the prepayment requirement or accept a bond or other financial instrument in lieu of payment.

(6) The mover shall pay the mover's share of all actual costs under subsection (2) in excess of any prepayment made under subsection (4) within 30 days of the move.

(7) If the prepayment made under subsection (4) exceeds the mover's share of actual costs under subsection (2), the owner of the wire, cable, or pole shall refund the difference to the mover within 30 days of the move."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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