

1 AN ACT relating to vegetation maintenance.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
4 TO READ AS FOLLOWS:

5 *As used in Sections 1 to 4 of this Act, unless the context requires otherwise:*

6 *(1) "ANSI" means American National Standards Institute;*

7 *(2) "Property owner" means the person who owns the underlying fee interest in the*
8 *land encumbered by the utility right-of-way;*

9 *(3) "Local government" means any city, county, urban-county government,*
10 *consolidated local government, unified local government, or charter county*
11 *government;*

12 *(4) "Utility" means the same as in KRS 278.010(3)(a);*

13 *(5) "Vegetation management plan" means a plan approved by the commission for*
14 *performing vegetation maintenance in utility right-of-ways and facilities that*
15 *deliver electric power that are owned or controlled by the utility; and*

16 *(6) "Vegetation maintenance" means cutting, pruning, trimming, chemically*
17 *treating, or mowing vegetation in a manner to prevent facility damage, promote*
18 *worker safety, and maintain reliability of the electrical system in accordance with*
19 *all local, state, and federal laws.*

20 ➔SECTION 2. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
21 TO READ AS FOLLOWS:

22 *(1) Each utility shall have a vegetation management plan, approved by and on file*
23 *with the commission. The vegetation management plan shall govern how the*
24 *utility conducts vegetation maintenance within the utility's service territory.*

25 *(2) Vegetation maintenance performed pursuant to a vegetation management plan*
26 *shall:*

27 *(a) Be performed in conformance with ANSI standards endorsed by the*

- 1 *International Society of Arboriculture;*
- 2 *(b) Be performed by qualified electric utility personnel or licensed contractors*
- 3 *trained to conduct vegetation maintenance consistent with the standards in*
- 4 *paragraph (a) of this subsection or by an arborist certified by the*
- 5 *International Society of Arboriculture;*
- 6 *(c) Meet the requirements of the most recent version of the National Electrical*
- 7 *Safety Code; and*
- 8 *(d) Include the removal of debris not more than three (3) days after vegetation*
- 9 *maintenance. Utilities shall not be subject to the time frame in this*
- 10 *paragraph in situations of cleanup from storm damage or during a declared*
- 11 *emergency.*
- 12 *(3) The vegetative management plan shall be open to inspection by the public on the*
- 13 *utility's Web site. All approved vegetation management plans shall comply with*
- 14 *applicable local, state, and federal laws, rules, orders, and administrative*
- 15 *regulations. Except when an emergency exists that affects public health and*
- 16 *safety, the utility shall perform all work in accordance with the vegetative*
- 17 *management plan.*
- 18 *(4) A vegetation management plan shall, at a minimum, require a utility to:*
- 19 *(a) Notify all customers within the local government's jurisdiction of any*
- 20 *vegetation maintenance two (2) months prior to commencing work;*
- 21 *(b) Provide written notice two (2) weeks prior to the commencement of*
- 22 *vegetation maintenance which includes the name, address, and phone*
- 23 *number for a contact at the utility to every property owner where planned*
- 24 *tree pruning or removal is to be performed;*
- 25 *(c) Physically mark trees that will be subject to clear cutting or removal of*
- 26 *more than twenty-five percent (25%) of a tree's canopy;*
- 27 *(d) Obtain the property owner's written consent for all trees subject to*

1 paragraph (c) of this subsection;

2 (e) Perform vegetative maintenance in conformance with the ANSI standards
3 endorsed by the International Society of Arboriculture; and

4 (f) Hold a public hearing every two (2) years as a part of the utility's customer
5 education plan.

6 (5) A utility customer may file a complaint with the commission in the form and
7 manner as the commission may require if the customer believes that the utility is
8 not performing vegetation maintenance according to its vegetation maintenance
9 plan. If the commission finds that the utility is not performing vegetation
10 maintenance in accordance with the plan, the utility shall be fined in accordance
11 with KRS 278.990(1).

12 ➔SECTION 3. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
13 TO READ AS FOLLOWS:

14 (1) As part of the customer education plan, the utility shall hold public hearings
15 throughout its certified territory every two (2) years. Dates and times for the
16 public hearing shall be posted on the utility's Web site. The public hearing shall
17 be recorded and posted for public viewing on the utility's Web site.

18 (2) At the public hearing, utility representatives shall detail, at a minimum:

19 (a) How the utility performs vegetation maintenance, including the trimming
20 and pruning cycles, proper methods for pruning trees, and necessary
21 vertical clearances and other clearances from poles, lines, and any other
22 conductors;

23 (b) The types of facilities and the minimum clearances necessary for each of
24 those facilities to maintain reliable service and ensure public health and
25 safety; and

26 (c) Homeowner rights regarding vegetative maintenance.

27 (3) At the public hearing, time and opportunity shall be given to the public to ask

1 questions and for utility representatives to respond to those questions.

2 (4) The utility shall develop a brochure that explains the homeowner's and the
 3 utility's rights and responsibilities regarding vegetation maintenance which shall
 4 be made available on the utility's Web site. The brochure shall explain how a
 5 customer can:

6 (a) Request consultation with the utility regarding vegetation maintenance;

7 (b) Make an objection to the consent for tree removal;

8 (c) File a complaint against the utility with the commission; and

9 (d) Seek legal remedy for tree loss.

10 ➔SECTION 4. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
 11 TO READ AS FOLLOWS:

12 (1) A homeowner shall have the right, with respect to trees subject to removal or
 13 pruning under subsection (2) of Section 2 of this Act, to:

14 (a) Consult with a utility representative with knowledge and expertise in the
 15 performance of vegetation maintenance using the utility's approved
 16 vegetation maintenance plan;

17 (b) Refuse consent for removal or pruning of trees if the customer thinks
 18 vegetative maintenance does not conform to the vegetative management
 19 plan; and

20 (c) Bring a civil action against the utility in a court of competent jurisdiction to
 21 recover treble damages resulting from the unauthorized tree removal or tree
 22 pruning. Damages shall be based on the reduction in the property's fair
 23 market value, along with any value associated with loss of use or loss of
 24 rental value, resulting from the tree removal or tree pruning.

25 (2) Objections to consent for removal or pruning of trees to the utility shall be made
 26 no more than fourteen (14) business days after prior notice is given by the utility
 27 under subsection (4) of Section 2 of this Act. Objections shall state whether

1 vegetative maintenance:

2 (a) Is likely to cause property damage or environmental damage due to the
3 destabilization of surface soil or the precipitation of surface water runoff;

4 (b) Does not conform to required ANSI standards; or

5 (c) Will not be performed by qualified personnel or qualified licensed
6 contractors.

7 (3) After receiving notice of a landowner's objection to grant consent, the utility shall
8 not remove or prune the tree or trees in question for ten (10) business days
9 following the receipt of a:

10 (a) Written objection from the property owner; or

11 (b) Call, time and date stamped, by the property owner to the utility objecting to
12 the removal or pruning of tree or trees.

13 (4) Once the utility receives an objection to vegetation maintenance under this
14 section, the utility shall respond to the property owner in no more than three (3)
15 business days. If a property owner fails to file for an injunction with a court of
16 competent jurisdiction where the vegetation maintenance is to be performed
17 within seven (7) days after the utility's response, the vegetation maintenance may
18 commence as scheduled.