

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1798

5 By: Representatives Wright, Eubanks, Bragg
6 By: Senators B. Sample, B. Pierce
7

For An Act To Be Entitled

9 AN ACT TO REQUIRE THAT THE RATES OF A PUBLIC UTILITY
10 FOR POLE ATTACHMENTS BE REASONABLE AND UNIFORM; TO
11 PROMOTE FURTHER BROADBAND DEPLOYMENT EFFORTS IN THE
12 STATE; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES.
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Subtitle

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16 TO REQUIRE THAT THE RATES OF A PUBLIC
17 UTILITY FOR POLE ATTACHMENTS BE
18 REASONABLE AND UNIFORM; TO PROMOTE
19 FURTHER BROADBAND DEPLOYMENT EFFORTS IN
20 THE STATE; AND TO DECLARE AN EMERGENCY.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 23-4-1001(1), concerning the definition of
27 "pole attachment", is amended to read as follows:

28 (1)(A) "Pole attachment" means the attachment of wires and
29 related equipment to a pole, duct, or conduit owned or controlled by a public
30 utility for the provision of:

- 31 (i) Electric service;
32 (ii) Telecommunication service;
33 (iii) ~~Cable television~~ Video service;
34 (iv) Internet access service; or
35 (v) Other related information and communication
36 services.



1 (B) "Pole attachment" does not mean multiground neutral
 2 connections; and

3
 4 SECTION 2. Arkansas Code § 23-4-1002 is amended to read as follows:
 5 23-4-1002. Nondiscriminatory access for pole attachments.

6 A public utility shall provide nondiscriminatory access for a pole
 7 attachment to:

- 8 (1) An electric utility;
- 9 (2) A telecommunications provider;
- 10 (3) A ~~cable television~~ video service; or
- 11 (4) ~~A cable~~ An Internet access service.

12
 13 SECTION 3. Arkansas Code § 23-4-1003 is amended to read as follows:
 14 23-4-1003. Regulation by commission of rates, terms, and conditions.

15 (a)(1) The Arkansas Public Service Commission shall regulate the
 16 rates, terms, and conditions upon which a public utility shall provide access
 17 for a pole attachment.

18 (2) A public utility's rates, terms, and conditions upon which a
 19 public utility shall provide access for a pole attachment shall be just and
 20 reasonable as determined by the commission.

21 (b)~~(1)~~ The commission shall not find a rate, term, or condition to be
 22 just and reasonable under this section unless the rate, term, or condition
 23 includes:

24 (1) A provision that the rate for a pole attachment shall be
 25 based on cost but shall not be greater than the rate that would apply if it
 26 were calculated according to the cable service rate formula under 47 U.S.C. §
 27 224(d), as it existed on January 1, 2015;

28 (2)(A) Provisions for technical standards for pole attachments
 29 that meet the National Electric Safety Code, as it existed on the date of the
 30 attachment.

31 (B) To the extent a public utility proposes standards that
 32 exceed the National Electric Safety Code, the public utility shall
 33 demonstrate that more stringent standards are just and reasonable;

34 (3) Provisions for pole replacement, maintenance, and
 35 rearrangement costs, including without limitation provisions requiring that:

36 (A) Costs should be borne by a person causing the cost,

1 including the public utility; and

2 (B) If more than one (1) person is responsible for the
 3 costs, the costs should be distributed equitably among all responsible
 4 persons;

5 (4) Provisions for reclamation of space, including provisions
 6 requiring that if a public utility is eligible to reclaim space, any costs of
 7 relocation or rearrangement shall be borne by the public utility, and if
 8 modifications are needed to expand capacity and maintain a pole attachment,
 9 the person responsible for the pole attachment shall be allowed to make the
 10 modifications at its own expense;

11 (5) Provisions for reasonable and adequate time intervals for
 12 processes and actions by each party;

13 (6) Provisions for safety inspections;

14 (7) Provisions that require that reasonable, adequate, and
 15 sufficient notice, along with rationale or business need, be given by the
 16 public utility for the relocation or construction of poles;

17 (8) Provisions allowing for the removal of a third-party
 18 attachment by the public utility only with reasonable, adequate, and
 19 sufficient notice, along with rationale or business need, or an opportunity
 20 to cure; and

21 (9) Provisions allowing for the placement of warning signs,
 22 service drops, bonds, and multigrounded neutral grounding connections, both
 23 on poles and pad-mounted transformers, without specific permission from the
 24 pole owner and without assessment of a fee by the pole owner.

25 (c)(1) The commission shall develop rules necessary for the effective
 26 regulation of the rates, terms, and conditions upon which a public utility
 27 shall provide access for a pole attachment.

28 (2) In developing and implementing the rules under this
 29 subsection, the commission shall consider:

30 (A) The interests of the subscribers of the services
 31 offered through pole attachments;

32 (B) The interests of the consumers of the public utility
 33 services;

34 (C) Maintenance of reliability of public utility services;

35 ~~and~~

36 (D) Compliance with applicable safety standards; and

1 consumers may suffer economic harm due to unfair rates by public utilities.
2 Therefore, an emergency is declared to exist, and this act being immediately
3 necessary for the preservation of the public peace, health, and safety shall
4 become effective on:

5 (1) The date of its approval by the Governor;

6 (2) If the bill is neither approved nor vetoed by the Governor,
7 the expiration of the period of time during which the Governor may veto the
8 bill; or

9 (3) If the bill is vetoed by the Governor and the veto is
10 overridden, the date the last house overrides the veto.

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