1	State of Arkansas	4 D'11	
2	90th General Assembly	A Bill	
3	Regular Session, 2015		HOUSE BILL 1798
4			
5	By: Representatives Wright, I	Eubanks, Bragg	
6	By: Senators B. Sample, B. P.	ierce	
7			
8		For An Act To Be Entitled	
9	AN ACT TO	REQUIRE THAT THE RATES OF A PUBLIC U	TILITY
10	FOR POLE A	ATTACHMENTS BE REASONABLE AND UNIFORM	I; TO
11	PROMOTE FU	JRTHER BROADBAND DEPLOYMENT EFFORTS I	N THE
12	STATE; TO	DECLARE AN EMERGENCY; AND FOR OTHER	
13	PURPOSES.		
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16		Subtitle	
17	TO RI	EQUIRE THAT THE RATES OF A PUBLIC	
18	UTIL	ITY FOR POLE ATTACHMENTS BE	
19	REASO	ONABLE AND UNIFORM; TO PROMOTE	
20	FURTI	HER BROADBAND DEPLOYMENT EFFORTS IN	
21	THE S	STATE; AND TO DECLARE AN EMERGENCY.	
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23			
24	BE IT ENACTED BY THE G	GENERAL ASSEMBLY OF THE STATE OF ARKA	NSAS:
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26		ansas Code § 23-4-1001(1), concerning	; the definition of
27	<u>-</u>	amended to read as follows:	
28	(1)(A) "F	Pole attachment" means the attachment	of wires and
29		a pole, duct, or conduit owned or con	itrolled by a public
30	utility for the provis		
31		(i) Electric service;	
32		(ii) Telecommunication service;	
33		(iii) <del>Cable television</del> <u>Video</u> serv	rice;
34		(iv) Internet access service; or	
35		(v) Other related information <u>and</u>	communication
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1	(B) "Pole attachment" does not mean multiground neutral	
2	connections; and	
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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 <del>cable television</del> <u>video</u> 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	<del>and</del>
36	(D) Compliance with applicable safety standards; and

1	(E) The criteria in subsection (b) of this section and any
2	related guidelines and considerations under the Federal Communications
3	Commission's Report and Order and Order on Reconsideration, WC Docket No. 07-
4	245, GN Docket No. 09-51, 26 F.C.C. Rcd 5240, issued on April 7, 2011, on
5	pole attachments.
6	(3) The commission shall adopt the initial rules under this
7	subsection within one (1) year of July 31, 2007.
8	(c)(d) Nothing in this This section does not prevents prevent a public
9	utility, an electric utility, a telecommunications provider, a cable
10	television video service provider, or a cable Internet access service from
11	entering into a voluntarily negotiated, written agreement regarding the
12	providing rates, terms, and conditions upon which access for a pole
13	attachment is provided for pole attachments that differ from the rates,
14	terms, or conditions under this section.
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16	SECTION 4. Arkansas Code § 23-4-1004(b), concerning the determination
17	of the reasonableness of rates for pole attachments, is amended to read as
18	follows:
19	(b) A public utility shall provide information upon the request of an
20	attaching party, or as required $for$ by the commission to verify that the
21	costs associated with access rates for pole attachments provided by the
22	public utility are just and reasonable comply with the requirements of § 23-
23	<u>4-1003(b)</u> .
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25	SECTION 5. Arkansas Code § 23-4-1004, concerning the authority of the
26	Arkansas Public Service Commission, is amended to add an additional
27	subsection to read as follows:
28	(d) The commission shall apply the standards and requirements under §
29	23-4-1003 in resolving a complaint or dispute under this subchapter that the
30	commission may hear under this section.
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32	SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
33	General Assembly of the State of Arkansas that public utilities own and
34	control pole attachments that provide utility service to Arkansas consumers;
35	that the rates of a public utility for pole attachments are unreasonable and
36	inconsistent: and that this act is immediately necessary because Arkansas

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	<pre>bill; or</pre>		
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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