

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

As Engrossed: H3/13/15

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

15
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:
25

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;

36 (4) Provisions for reclamation of space, including provisions

1 requiring that if a public utility is eligible to reclaim space, any costs of
2 relocation or rearrangement shall be borne by the public utility, and if
3 modifications are needed to expand capacity and maintain a pole attachment,
4 the person responsible for the pole attachment shall be allowed to make the
5 modifications at its own expense;

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

8 (6) Provisions for safety inspections;

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

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

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

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

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

25 (A) The interests of the subscribers of the services
26 offered through pole attachments;

27 (B) The interests of the consumers of the public utility
28 services;

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

30 ~~and~~

31 (D) Compliance with applicable safety standards; and

32 (E) The criteria in subsection (b) of this section and any
33 related guidelines and precedent of the Federal Communications Commission
34 regarding pole attachments.

35 ~~(3) The commission shall adopt the initial rules under this~~
36 ~~subsection within one (1) year of July 31, 2007.~~

1 ~~(e)(d) Nothing in this~~ This section does not prevent a public
2 utility, an electric utility, a telecommunications provider, a ~~cable~~
3 ~~television video~~ service provider, or a cable Internet access service from
4 entering into a voluntarily negotiated, written agreement ~~regarding the~~
5 providing rates, terms, and conditions upon which access for a pole
6 attachment is provided for pole attachments that differ from the rates,
7 terms, or conditions under this section.

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9 SECTION 4. Arkansas Code § 23-4-1004(b), concerning the determination
10 of the reasonableness of rates for pole attachments, is amended to read as
11 follows:

12 (b) A public utility shall provide information upon the request of an
13 attaching party, or as required for by the commission to verify that the
14 ~~costs associated with access~~ rates for pole attachments ~~provided by the~~
15 ~~public utility are just and reasonable~~ comply with the requirements of § 23-
16 4-1003(b).

17
18 SECTION 5. Arkansas Code § 23-4-1004, concerning the authority of the
19 Arkansas Public Service Commission, is amended to add an additional
20 subsection to read as follows:

21 (d) The commission shall apply the standards and requirements under §
22 23-4-1003 in resolving a complaint or dispute under this subchapter that the
23 commission may hear under this section.

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25 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
26 General Assembly of the State of Arkansas that public utilities own and
27 control pole attachments that provide utility service to Arkansas consumers;
28 that the rates of a public utility for pole attachments are unreasonable and
29 inconsistent; and that this act is immediately necessary because Arkansas
30 consumers may suffer economic harm due to unfair rates by public utilities.
31 Therefore, an emergency is declared to exist, and this act being immediately
32 necessary for the preservation of the public peace, health, and safety shall
33 become effective on:

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

35 (2) If the bill is neither approved nor vetoed by the Governor,
36 the expiration of the period of time during which the Governor may veto the

1 bill; or

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

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5 */s/Wright*

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