

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
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As Engrossed: H3/13/15
A Bill

HOUSE BILL 1798

By: Representatives Wright, Eubanks, Bragg

By: Senators B. Sample, B. Pierce

For An Act To Be Entitled

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

Subtitle

TO REQUIRE THAT THE RATES OF A PUBLIC UTILITY FOR POLE ATTACHMENTS BE REASONABLE AND UNIFORM; TO PROMOTE FURTHER BROADBAND DEPLOYMENT EFFORTS IN THE STATE; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 23-4-1001(1), concerning the definition of "pole attachment", is amended to read as follows:

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

- (i) Electric service;
- (ii) Telecommunication service;
- (iii) ~~Cable television~~ Video service;
- (iv) Internet access service; or
- (v) Other related information and communication

services.



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

SECTION 2. Arkansas Code § 23-4-1002 is amended to read as follows:

23-4-1002. Nondiscriminatory access for pole attachments.

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

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

SECTION 3. Arkansas Code § 23-4-1003 is amended to read as follows:

23-4-1003. Regulation by commission of rates, terms, and conditions.

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

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

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

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

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

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

(3) Provisions for pole replacement, maintenance, and rearrangement costs;

(4) Provisions for reclamation of space, including provisions

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

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

(6) Provisions for safety inspections;

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

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

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

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

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

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

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

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

(D) Compliance with applicable safety standards; and

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

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

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

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

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

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

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

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

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

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

bill; or

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

/s/Wright