

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1388, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Treat

Treat-CB-FS-Req#3513
3/12/2018 5:22 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1388

By: Treat of the Senate

and

Thomsen of the House

FLOOR SUBSTITUTE

An Act relating to telecommunications; creating the Oklahoma Small Wireless Facilities Deployment Act; defining terms; establishing procedures for the collocation and deployment of small wireless facilities and utility poles within a right-of-way; establishing the permitting process for wireless providers utilizing small wireless facilities in certain areas; establishing permitting and application process for wireless providers installing and maintaining utility poles in certain areas; establishing exceptions to the permitting process; establishing procedures for wireless provider access to utility poles in certain areas; establishing permissible rates and fees for certain activities related to small wireless facility deployment; exempting certain entities from application of fees; establishing procedures for agreements and ordinances adopted by certain entities for implementation of this act; establishing jurisdiction for dispute resolutions related to this act; authorizing certain entities to adopt requirements related to indemnification insurance, and bonding in implementation of this act; establishing procedures for requirements related to indemnification, insurance and bonding in implementation of this act; providing for codification; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 36-501 of Title 11, unless there
4 is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Oklahoma Small
6 Wireless Facilities Deployment Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 36-502 of Title 11, unless there
9 is created a duplication in numbering, reads as follows:

10 As used in the Oklahoma Small Wireless Facilities Deployment
11 Act:

12 1. "Antenna" means communications equipment that transmits or
13 receives electromagnetic radio frequency signals used in the
14 provision of wireless services;

15 2. "Applicable codes" means uniform building, fire, electrical,
16 plumbing or mechanical codes adopted by a recognized national code
17 organization or local amendments to those codes enacted solely to
18 address imminent threats of destruction of property or injury to
19 persons to the extent not inconsistent with this act;

20 3. "Applicant" means any person who submits an application and
21 is a wireless provider;

22 4. "Application" means a request submitted by an applicant to
23 an authority:
24

- a. for a permit to collocate small wireless facilities,
or
- b. to approve the installation, modification or
replacement of a utility pole or wireless support
structure;

5. "Authority" means a municipality or a municipal electric utility;

6. "Authority pole" means a utility pole owned, managed or operated by or on behalf of an authority;

7. "Collocate" means to install, mount, maintain, modify, operate or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning;

8. "Communications service provider" means a cable operator, as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider;

9. "Decorative pole" means an authority pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility or specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal rules or codes;

1 10. "FCC" means the Federal Communications Commission of the
2 United States;

3 11. "Fee" means a one-time, nonrecurring charge;

4 12. "Historic district" means a group of buildings, properties
5 or sites that are either listed in the National Register of Historic
6 Places or formally determined eligible for listing by the Keeper of
7 the National Register, the individual who has been delegated the
8 authority by the federal agency to list properties and determine
9 their eligibility for the National Register, in accordance with
10 Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement
11 codified at 47 C.F.R. Part 1, Appendix C;

12 13. "Law" means federal, state, or local law, statute, common
13 law, code, rule, regulation, order or ordinance;

14 14. "Micro wireless facility" means a small wireless facility
15 that meets the following qualifications:

16 (a) is not larger in dimension than twenty-four (24)
17 inches in length, fifteen (15) inches in width, and
18 twelve (12) inches in height, and

19 (b) any exterior antenna is no longer than eleven (11)
20 inches;

21 15. "Permit" means a written authorization required by an
22 authority to perform an action or initiate, continue, or complete a
23 project;

1 16. "Person" means an individual, corporation, limited
2 liability company, partnership, association, trust or other entity
3 or organization, including an authority;

4 17. "Rate" means a recurring charge;

5 18. "Right(s)-of-way" means the area within the jurisdiction of
6 the authority that is on, below or above a public roadway, highway,
7 street, sidewalk, alley or similar property, or a public easement
8 that authorizes the deployment sought by the wireless provider, but
9 does not include a federal interstate highway;

10 19. "Small wireless facility" means a wireless facility that
11 meets both of the following qualifications:

12 a. each antenna of the wireless provider could fit within
13 an enclosure of no more than six (6) cubic feet in
14 volume, and

15 b. all other wireless equipment associated with the
16 wireless facility, whether ground or pole-mounted, is
17 cumulatively no more than twenty-eight (28) cubic feet
18 in volume. The following types of associated
19 ancillary equipment are not included in the
20 calculation of equipment volume: electric meter,
21 concealment elements, telecommunications demarcation
22 box, grounding equipment, power transfer switch, cut-
23 off switch and vertical cable runs for the connection
24 of power and other services;

1 20. "Technically feasible" means that by virtue of engineering
2 or spectrum usage the proposed placement for a small wireless
3 facility, or its design or site location can be implemented without
4 a reduction in the functionality of the small wireless facility;

5 21. "Utility pole" means a pole or similar structure that is or
6 may be used in whole or in part by or for wireline communications,
7 electric distribution, lighting, traffic control, signage or a
8 similar function, or for the collocation of small wireless
9 facilities; provided, however, such term shall not include wireless
10 support structures or electric transmission structures;

11 22. "Wireless facility" means equipment at a fixed location
12 that enables wireless communications between user equipment and a
13 communications network, including: (a) equipment associated with
14 wireless communications; and (b) radio transceivers, antennas,
15 coaxial or fiber-optic cable, regular and backup power supplies, and
16 comparable equipment, regardless of technological configuration.
17 The term includes small wireless facilities. The term does not
18 include:

- 19 a. the structure or improvements on, under, or within
20 which the equipment is collocated, or
- 21 b. coaxial or fiber-optic cable that is between wireless
22 support structures or utility poles or that is
23 otherwise not immediately adjacent to or directly
24 associated with a particular antenna;

1 23. "Wireless infrastructure provider" means any person
2 authorized to provide telecommunications service in the state, that
3 builds or installs wireless communication transmission equipment,
4 wireless facilities or wireless support structures, but that is not
5 a wireless services provider;

6 24. "Wireless provider" means a wireless infrastructure
7 provider or a wireless services provider;

8 25. "Wireless services" means any services, whether at a fixed
9 location or mobile, provided to the public using wireless
10 facilities;

11 26. "Wireless services provider" means a person who provides
12 wireless services; and

13 27. "Wireless support structure" means a structure, such as a
14 monopole; tower, either guyed or self-supporting; billboard;
15 building; or other existing or proposed structure designed to
16 support or capable of supporting wireless facilities, other than a
17 structure designed solely for the collocation of small wireless
18 facilities. Such term shall not include a utility pole.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 36-503 of Title 11, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The provisions of this section shall only apply to the
23 collocation of small wireless facilities by a wireless provider in
24 the rights of way and the deployment of utility poles to support

1 small wireless facilities by a wireless provider in the rights of
2 way.

3 B. An authority may not enter into an exclusive arrangement
4 with any person for use of the rights of way for the collocation of
5 small wireless facilities or the installation, operation, marketing,
6 modification, maintenance, or replacement of utility poles or
7 wireless support structures.

8 C. An authority may only charge a wireless provider a rate or
9 fee for the use of the rights of way with respect to the collocation
10 of small wireless facilities or the installation, maintenance,
11 modification, operation or replacement of a utility pole in the
12 right-of-way, if the authority charges non-public entities for use
13 of the rights-of-way. Notwithstanding the foregoing, an authority
14 is permitted, on a nondiscriminatory basis, to refrain from charging
15 any rate to a wireless provider for the use of the right-of-way.
16 The rate for use of the right-of-way is provided in Section 6 of
17 this act.

18 D. Subject to the provisions of this section and the approval
19 of an application pursuant to Section 4 of this act, a wireless
20 provider shall have the right, as a permitted use not subject to
21 zoning review or approval, to collocate small wireless facilities
22 and install, maintain, modify, operate and replace utility poles
23 along, across, upon, and under the rights-of-way. Such structures
24 and facilities shall be so installed and maintained as not to

1 obstruct or hinder the usual travel or public safety on such right-
2 of-way or obstruct the legal use of such right-of-way by other
3 occupants of the right-of-way, including public utilities.

4 E. Each new or modified utility pole installed in the right-of-
5 way shall not exceed the greater of:

6 1. Ten (10) feet in height above the tallest existing utility
7 pole in place as of the effective date of this act located within
8 five hundred (500) feet of the new pole in the same right-of-way; or

9 2. Fifty (50) feet above ground level.

10 New small wireless facilities in the right-of-way may not extend
11 more than ten (10) feet above an existing utility pole in place as
12 of the effective date of this act or, for small wireless facilities
13 on a new utility pole, above the height permitted for a new utility
14 pole under this section. Subject to this section and Section 6 of
15 this act, a wireless provider shall have the right to collocate a
16 small wireless facility and install, maintain, modify, operate and
17 replace a utility pole that exceeds these height limits along,
18 across, upon and under the right-of-way, subject to applicable
19 zoning regulations.

20 F. A wireless provider shall have the right to collocate a
21 small wireless facility and install, maintain, modify, operate and
22 replace a utility pole that exceeds the height limits in subsection
23 E of this section along, across, upon and under the right-of-way,
24 subject to applicable zoning regulations.

1 G. An authority may adopt written guidelines establishing
2 reasonable and objective stealth or concealment criteria for small
3 wireless facilities in designated areas; reasonable and objective
4 design criteria for small wireless facilities to be collocated on
5 decorative poles; and reasonable and objective design criteria for
6 utility poles deployed in areas with decorative poles. Such
7 guidelines may be adopted by any appropriate means, including
8 without limitation by inclusion in the authority's zoning code, but
9 such inclusion shall not subject small wireless facilities and
10 utility poles classified as permitted uses in subsection D of this
11 section to zoning review. Such guidelines may be adopted only if
12 they apply on a nondiscriminatory basis to all other occupants of
13 the right-of-way, including the authority. A wireless provider that
14 seeks to collocate small wireless facilities on a decorative pole
15 shall comply with Section 4 of this act. A wireless provider that
16 is required to replace a decorative pole at its expense in
17 compliance with Section 5 of this act shall conform the new
18 decorative pole to the design aesthetics and material of the
19 decorative pole being replaced.

20 H. Wireless providers shall comply with reasonable and
21 nondiscriminatory requirements that prohibit communications service
22 providers from installing structures in the right-of-way in an area
23 designated solely for underground or buried cable and utility
24 facilities where:

1 1. The authority has required all cable and utility facilities
2 other than authority poles and attachments to be placed underground
3 by:

- 4 a. a date certain before the application is submitted, or
- 5 b. a date certain within two (2) years after the
- 6 application is submitted, if relocation of facilities
- 7 has commenced;

8 2. The authority does not prohibit the replacement of authority
9 poles in the designated area; and

10 3. The authority permits wireless providers to seek a waiver of
11 the undergrounding requirements for the placement of a new utility
12 pole to support small wireless facilities, which waivers shall be
13 addressed in a nondiscriminatory manner.

14 I. Subject to Section 4 of this act and subsection D of this
15 section, and except for facilities excluded from evaluation for
16 effects on historic properties under 47 C.F.R. § 1.1307(a)(4) of the
17 FCC rules, an authority may require reasonable, technically
18 feasible, non-discriminatory and technologically neutral design or
19 concealment measures in a historic district. Any such design or
20 concealment measures may not have the effect of prohibiting any
21 provider's technology; nor may any such measures be considered a
22 part of the small wireless facility for purposes of the size
23 restrictions in the definition of small wireless facility.

1 J. The authority, in the exercise of its administration and
2 regulation related to the management of the right-of-way, must be
3 competitively neutral with regard to other users of the right-of-
4 way, including that terms may not be unreasonable or discriminatory
5 and may not violate any applicable law.

6 K. The authority may require a wireless provider to repair all
7 damage to the right-of-way directly caused by the activities of the
8 wireless provider in the right-of-way and to return the right-of-way
9 to its functional equivalence before the damage pursuant to the
10 competitively neutral, reasonable requirements and specifications of
11 the authority. If the wireless provider fails to make the repairs
12 required by the authority within a reasonable time after written
13 notice, the authority may affect those repairs and charge the
14 applicable party the reasonable, documented cost of such repairs. A
15 wireless provider shall be required to comply with rights-of-way and
16 vegetation management practices adopted by the authority that apply
17 to all occupants of the rights-of-way.

18 L. Nothing in this act precludes an authority from adopting
19 reasonable and nondiscriminatory requirements with respect to
20 the removal of abandoned small wireless facilities. A small
21 wireless facility that is not operated for a continuous period
22 of twelve (12) months shall be considered abandoned and the
23 owner of the facility must remove the small wireless facility
24 within ninety (90) days after receipt of written notice from

1 the authority notifying the owner of the abandonment. The
2 notice shall be sent by certified or registered mail, return
3 receipt requested, by the authority to the owner at the last
4 known address of the owner. If the owner neither provides the
5 authority written notice that the small wireless facility has
6 not been out of operation for a continuous period of twelve
7 (12) months nor removes the small wireless facility within the
8 90-day period, the authority may remove the small wireless
9 facility, take ownership of the small wireless facility, and,
10 take ownership of the small wireless facility, and assess the
11 cost of removal to the owner.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 36-504 of Title 11, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The provisions of this section shall apply to the permitting
16 of small wireless facilities by a wireless provider in or outside
17 the right-of-way as specified in subsection C of this section and to
18 the permitting of the installation, modification, and replacement of
19 utility poles by a wireless provider inside the right-of-way.

20 B. Except as provided in this act, an authority may not
21 prohibit, regulate, or charge for the collocation of small wireless
22 facilities classified as permitted uses in subsection C of this
23 section.

24

1 C. Small wireless facilities shall be classified as permitted
2 uses and not subject to zoning review or approval if they comply
3 with the height requirements of subsection E of Section 3 of this
4 act and are collocated in the right-of-way in any zone or outside
5 the right-of-way in property not zoned exclusively for residential
6 single family or duplex use. Utility poles installed to support
7 small wireless facilities shall be classified as permitted uses and
8 not subject to zoning review or approval if they comply with the
9 height requirements in subsection E of Section 3 of this act and are
10 collocated in the right-of-way in any zone.

11 D. An authority may require an applicant to obtain one or more
12 permits to collocate a small wireless facility or install a new,
13 modified or replacement utility pole associated with a small
14 wireless facility as provided in Section 4 of this act, provided
15 such permits are of general applicability and do not apply
16 exclusively to wireless facilities. An authority shall receive
17 applications for, process and issue such permits subject to the
18 following requirements:

19 1. An authority may not directly or indirectly require an
20 applicant to perform services or provide goods unrelated to the
21 permit, such as in-kind contributions to the authority including
22 reserving fiber, conduit or pole space for the authority;

23 2. An applicant shall not be required to provide more
24 information to obtain a permit than communications service providers

1 that are not wireless providers, provided that an applicant may be
2 required to include construction and engineering drawings and
3 information demonstrating compliance with the criteria in paragraph
4 8 of this subsection and, for an application to collocate on an
5 authority pole, a wireless provider may be required to provide, at
6 its expense, engineering analysis demonstrating compliance with
7 applicable standards and codes, construction drawings stamped by a
8 professional engineer registered in Oklahoma, and a description of
9 any recommended make-ready work, including any modification or
10 replacement of the authority pole;

11 3. An authority may not require the placement of small wireless
12 facilities on any specific utility pole or category of poles or
13 require multiple antenna systems on a single utility pole;

14 4. An authority may not limit the placement of small wireless
15 facilities by minimum separation distances;

16 5. The authority may require an applicant to include an
17 attestation that the small wireless facilities will be operational
18 for use by a wireless services provider within one (1) year after
19 the permit issuance date, unless the authority and the applicant
20 agree to extend this period or delay is caused by lack of commercial
21 power or communications transport facilities to the site;

22 6. Within twenty (20) days of receiving an application, an
23 authority must determine and notify the applicant in writing whether
24 the application is complete. If an application is incomplete, an

1 authority must specifically identify the missing information in
2 writing. The processing deadline in paragraph 7 of this subsection
3 is tolled from the time the authority sends the notice of
4 incompleteness to the time the Applicant provides the missing
5 information. That processing deadline also may be tolled by
6 agreement of the applicant and the authority;

7 7. An application shall be processed on a nondiscriminatory
8 basis and deemed approved if the authority fails to approve or deny
9 the application within seventy five (75) days of receipt of the
10 application;

11 8. An authority may deny a proposed collocation of a small
12 wireless facility or installation, modification or replacement of a
13 utility pole that meets the height requirements in subsection E of
14 Section 3 of this act only if the proposed application:

- 15 a. materially interferes with the safe operation of
16 traffic control equipment or emergency management
17 system or devices,
- 18 b. materially interferes with sight lines or clear zones
19 for transportation or pedestrians,
- 20 c. materially interferes with compliance with the
21 Americans with Disabilities Act or similar federal or
22 state standards regarding pedestrian access or
23 movement,

- 1 d. materially interferes with Federal Aviation
2 Administration requirements or the operation of an
3 airport or air traffic,
- 4 e. fails to comply with reasonable and nondiscriminatory
5 spacing requirements of general application adopted by
6 ordinance that concern the location of ground-mounted
7 equipment and new Utility Poles. Such spacing
8 requirements shall not prevent a wireless provider
9 from serving any location,
- 10 f. fails to comply with reasonable and nondiscriminatory
11 requirements, with respect to ground-mounted
12 equipment, of general application adoption by
13 ordinances that concern the following:
- 14 (1) spacing of the ground-mounted equipment,
15 (2) interference with sight lines, clear zones or
16 pedestrian access or movement,
17 (3) unhindered use of the right-of-way by other
18 right-of-way occupants, including the authority,
19 or
20 (4) objective concealment measures in a historic
21 district,
- 22 g. fails to comply with applicable codes, including
23 without limitation the most recent version of the
24 National Electric Safety Code,

1 h. fails to comply with subsections D, G, H and I of
2 Section 3 of this act, or

3 j. causes the utility pole or wireless support structure
4 to become structurally unsound, unless the applicant
5 demonstrates that it will address the problem
6 adequately, such as by modifying or replacing the
7 structure;

8 9. The authority shall document the basis for a denial,
9 including the specific code provisions on which the denial was
10 based, and send the documentation to the applicant on or before the
11 day the authority denies an application. The applicant may cure the
12 deficiencies identified by the authority and resubmit the
13 application within thirty (30) days of the denial without paying an
14 additional application fee. The authority shall approve or deny the
15 revised application within thirty (30) days. Any subsequent review
16 shall be limited to the deficiencies cited in the denial;

17 10. An applicant seeking to collocate small wireless facilities
18 within the jurisdiction of a single authority shall be allowed at
19 the applicant's discretion to file a consolidated application for
20 the collocation of up to twenty-five (25) small wireless facilities
21 and receive a single permit; provided, however, the denial of one or
22 more small wireless facilities in a consolidated application shall
23 not delay processing of any other small wireless facilities in the
24 same batch;

1 11. Installation or collocation for which a permit is granted
2 pursuant to this section shall be completed within one year of after
3 the permit issuance date unless the authority and the applicant
4 agree to extend this period or a delay is caused by the lack of
5 commercial power or communications facilities at the site. Approval
6 of an application authorizes the applicant to:

- 7 a. undertake the installation or collocation, and
- 8 b. subject to applicable relocation requirements and the
9 applicant's right to terminate at any time, operate
10 and maintain the small wireless facilities and any
11 associated utility pole covered by the permit for a
12 period of not less than ten (10) years, which must be
13 renewed for equivalent durations so long as they are
14 in compliance with the criteria set forth in paragraph
15 8 of this subsection;

16 12. Wireless providers shall comply with relocation
17 requirements that apply to similarly situated occupants of the
18 rights-of-way; and

19 13. An authority may not institute, either expressly or de
20 facto, a moratorium on:

- 21 a. filing, receiving, or processing applications, or
- 22 b. issuing permits or other approvals, if any, for the
23 collocation of small wireless facilities or the

1 installation, modification, or replacement of utility
2 poles to support small wireless facilities.

3 E. An authority shall not require an application for the
4 following:

5 1. Routine maintenance;

6 2. The replacement of small wireless facilities with small
7 wireless facilities that are substantially similar or the same size
8 or smaller; or

9 3. For the installation, placement, maintenance, operation, or
10 replacement of micro wireless facilities that are strung on cables
11 between existing utility poles, in compliance with the National
12 Electrical Safety Code.

13 An authority may, however, require a permit to work within the
14 right-of-way for such activities, if applicable. Any such permits
15 shall be subject to the requirements provided in subsections C and D
16 of this section.

17 SECTION 5. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 36-505 of Title 11, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The provisions of this section shall apply to activities of
21 the wireless provider within the right-of-way.

22 B. A person owning, managing, or controlling authority poles in
23 the right-of-way may not enter into an exclusive arrangement with
24 any person for the right to attach to such poles. A person who

1 purchases or otherwise acquires an authority pole is subject to the
2 requirements of this section.

3 C. An authority shall allow the collocation of small wireless
4 facilities on authority poles subject to the application process in
5 Section 4 of this act and the make-ready process in this section.

6 The rates, fees and terms for such collocations shall:

7 a. be nondiscriminatory regardless of the services
8 provided by the collocating person,

9 b. comply with this act, and

10 c. be made available to wireless providers under Section
11 9 of this act.

12 D. The rates, fees, and terms and conditions for the make-ready
13 work to collocate on an authority pole described in the application
14 shall be nondiscriminatory, competitively neutral, and commercially
15 reasonable and must comply with this act. The authority may perform
16 the make-ready work necessary to enable the pole to support the
17 requested collocation by a wireless provider or require the wireless
18 provider to perform the make-ready work. If the authority elects to
19 perform the make-ready work, it shall provide a good faith estimate
20 for the work, including pole replacement if necessary, within sixty
21 (60) days after receipt of a complete application. The authority
22 shall complete any make-ready work it elects to perform, including
23 any pole replacement, within sixty (60) days of written acceptance
24 of the good faith estimate by the applicant. An authority may

1 require replacement of the authority pole only if it demonstrates
2 that the collocation would make the authority pole structurally
3 unsound. If the pole is replaced, the authority shall take
4 ownership of the pole.

5 The person owning, managing, or controlling the authority pole
6 shall not require more make-ready work than required to meet
7 applicable codes or industry standards. Fees for make-ready work
8 shall not include costs related to pre-existing or prior damage or
9 noncompliance. Fees for make-ready work including any pole
10 replacement, shall be reasonable and nondiscriminatory and shall not
11 exceed actual costs, which may include the amount the authority pays
12 a professional engineer registered in this state to review the make-
13 ready work plans of the wireless provider.

14 E. A wireless provider shall comply with the following
15 requirements and specifications when collocating on an authority
16 electric distribution pole:

17 1. Requirements and specifications of the National Electrical
18 Code and the Occupational Safety and Health Act, including
19 amendments or revisions to such requirements or specifications, and
20 in the event of conflict, the most stringent of such requirements
21 and specifications; and

22 2. Requirements and specifications of general application
23 adopted by the authority that do not conflict with this act,
24 including requirements and specifications that concern how equipment

1 shall be attached to electric distribution poles so that the poles
2 may be safely climbed.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 36-506 of Title 11, unless there
5 is created a duplication in numbering, reads as follows:

6 A. This section shall govern an authority's rates and fees for
7 the placement of a wireless facility, wireless support structure or
8 utility pole.

9 B. An authority may not require a wireless provider to pay any
10 rates, fees, or compensation to the authority or other person other
11 than what is expressly authorized by this act for the right to use
12 or occupy a right-of-way, for collocation of small wireless
13 facilities on utility poles in the right-of-way, or for the
14 installation, maintenance, modification, operation and replacement
15 of utility poles in the right-of-way.

16 C. Application fees shall be subject to the following
17 requirements:

18 1. An authority may charge an application fee only if such fee
19 is required for similar types of commercial development or
20 construction within the authority's jurisdiction;

21 2. An application fee may not include:

22 a. travel expenses incurred by a third party in its
23 review of an application, or
24

1 b. direct payment or reimbursement of third-party rates
2 or fees charged on a contingency basis or a result-
3 based arrangement;

4 3. An application fee for a collocation shall be limited to the
5 cost of granting a permit for similar types of commercial
6 development or construction within the authority's jurisdiction.
7 The application and permit fees for collocation of small wireless
8 facilities on an existing or replacement authority pole shall not
9 exceed Two Hundred Dollars (\$200.00) each for the first five (5)
10 small wireless facilities on the same application and One Hundred
11 Dollars (\$100.00) for each additional small wireless facility on the
12 same application; and

13 4. The application and permit fees for the installation,
14 modification or replacement of a utility pole and the collocation of
15 an associated small wireless facility that are permitted uses in
16 accordance with the specifications in subsection D of Section 3 of
17 this act shall not exceed Three Hundred Fifty Dollars (\$350.00) per
18 pole for access to the right-of-way.

19 D. The rate for occupancy of the right-of-way shall not exceed
20 Twenty Dollars (\$20.00) per year per small wireless facility.

21 E. The rates to collocate on authority poles in the rights-of-
22 way shall not exceed Twenty Dollars (\$20.00) per authority pole per
23 year.

1 F. There shall be no rate charged for the installation,
2 placement, maintenance, operation, or replacement of micro-wireless
3 facilities that are strung on cables between existing utility poles,
4 in compliance with the National Electrical Safety Code.

5 G. Rates provided in this section do not include any applicable
6 charges for electric power. A wireless provider must pay separately
7 for such services.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 507 of Title 11, unless there is
10 created a duplication in numbering, reads as follows:

11 This act does not impose or otherwise affect any tariff,
12 contractual obligation or right, or federal or state law regarding
13 utility poles, similar structures or equipment of any type owned or
14 controlled by an investor-owned electric utility or electric
15 cooperative.

16 SECTION 8. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 36-508 of Title 11, unless there
18 is created a duplication in numbering, reads as follows:

19 This section applies to activities in the right-of-way only.
20 Nothing in this act shall be interpreted to allow any entity to
21 provide services regulated under 47 U.S.C. § 521 to 573, without
22 compliance with all laws applicable to such providers. Nor shall
23 this act be interpreted to impose any new requirements on cable
24 providers for the provision of such service in this state.

1 SECTION 9. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 36-509 of Title 11, unless there
3 is created a duplication in numbering, reads as follows:

4 Subject to the provisions of this act and applicable federal
5 law, an authority may continue to exercise zoning, land use,
6 planning and permitting authority within its territorial boundaries
7 with respect to wireless support structures and utility poles. No
8 authority shall have or exercise any jurisdiction or authority over
9 the design, engineering, construction, installation, or operation of
10 any small wireless facility located in an interior structure or upon
11 the site of any campus, stadium, or athletic facility not owned or
12 controlled by the authority, other than to comply with applicable
13 codes. An authority shall evaluate the structure classification for
14 wireless support structures under the latest version of ANSI/TIA-
15 222. Nothing in this act authorizes the state or any political
16 subdivision, including an authority, to require wireless facility
17 deployment or to regulate wireless services.

18 SECTION 10. NEW LAW A new section of law to be codified

19 in the Oklahoma Statutes as Section 36-510 of Title 11, unless there
20 is created a duplication in numbering, reads as follows:

21 A. An authority may adopt an ordinance, resolution or standard
22 agreement that makes available to wireless providers rates, fees,
23 and other terms that comply with this act. Subject to subsections
24 B, C, D and E of this section, in the absence of an ordinance,

1 resolution or standard agreement that fully complies with this act
2 and until such a compliant ordinance, resolution or standard
3 agreement is adopted, if at all, wireless providers may install and
4 operate small wireless facilities and utility poles under the
5 requirements of this act.

6 B. Agreements between an authority and a wireless provider for
7 the deployment of small wireless facilities in the right-of-way
8 under the terms of this act are public/private agreements.

9 C. An ordinance, resolution or standard agreement that does not
10 fully comply with this act may apply only to small wireless
11 facilities and utility poles that became operational or were
12 installed before the effective date of this act. An ordinance,
13 resolution or standard agreement that applies to small wireless
14 facilities and utility poles that became operational or were
15 constructed before the effective date of this act is invalid and
16 unenforceable beginning on the one hundred eighty first day after
17 the effective date of this act unless it fully complies with this
18 act. If an ordinance, resolution or standard agreement is invalid
19 in accordance with this subsection, in the absence of an ordinance,
20 resolution or standard agreement that fully complies with this act
21 and until such a compliant agreement or ordinance is entered or
22 adopted, small wireless facilities and utility poles that become
23 operational or were constructed before the effective date of this
24

1 act may remain installed and be operated under the requirements of
2 this act.

3 D. An agreement or ordinance that applies to small wireless
4 facilities and utility poles that become operational on or after the
5 effective date of this act may not be enforced beginning on the
6 effective date of this act unless it fully complies with this act.
7 If an ordinance, resolution or standard agreement is invalid in
8 accordance with this subsection, in the absence of an ordinance,
9 resolution or standard agreement that fully complies with this act
10 and until such a compliant ordinance, resolution or standard
11 agreement is entered or adopted, small wireless facilities and
12 utility poles may be installed and operated in the right-of-way or
13 become operational under the requirements of this act.

14 E. Notwithstanding the requirements in subsections C and D of
15 this section, a communications service provider that has executed an
16 agreement with an authority relating to small wireless facilities
17 and utility poles prior to the effective date of this act may choose
18 to continue to be subject to the rates, terms and conditions of that
19 agreement for up to five years beyond the effective date of this
20 act.

21 SECTION 11. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 36-511 of Title 11, unless there
23 is created a duplication in numbering, reads as follows:
24

1 A court of competent jurisdiction shall have jurisdiction to
2 determine all disputes arising under this act. Pending resolution
3 of a dispute concerning rates for collocation of small wireless
4 facilities on authority poles and non-authority poles, the person
5 owning or controlling the pole shall allow the collocating person to
6 collocate on its poles at annual rates of no more than Twenty
7 Dollars (\$20.00) with rates to be trued up upon final resolution of
8 the dispute.

9 SECTION 12. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 36-512 of Title 11, unless there
11 is created a duplication in numbering, reads as follows:

12 A. An authority may adopt indemnification, insurance and
13 bonding requirements related to small wireless facility permits
14 subject to the requirements of this section.

15 B. An authority may require a wireless provider to defend,
16 indemnify and hold harmless the authority and its officers, agents
17 and employees against any claims, demands, damages, lawsuits,
18 judgments, costs, liens, losses, expenses and attorney fees
19 resulting from the installation, construction, repair, replacement,
20 operation or maintenance of wireless facilities, wireless support
21 structures or utility poles to the extent caused by the wireless
22 provider, its contractors, subcontractors and their officers,
23 employees or agents. A wireless provider has no obligation to
24 defend, indemnify or hold harmless an authority, its officers,

1 agents or employees against any liabilities or losses due to or
2 caused by the sole negligence of the authority or its employees or
3 agents.

4 C. An authority may require a wireless provider to have in
5 effect insurance coverage naming the authority and its officers,
6 agents, and employees as additional insureds against the claims,
7 demands, damages, lawsuits, judgments, costs, liens, losses,
8 expenses and attorney fees described in subsection A of this
9 section, so long as the authority imposes similar requirements on
10 other users of the rights-of-way and such requirements are
11 reasonable and nondiscriminatory.

12 D. An authority may require a wireless provider to furnish
13 proof of insurance, if required, prior to the effective date of any
14 permit issued for a small wireless facility.

15 E. An authority may adopt bonding requirements for small
16 wireless facilities if the authority imposes similar requirements in
17 connection with permits issued for other users of the rights-of-way.

18 1. The purpose of such bonds shall be to:

- 19 a. provide for the removal of abandoned or improperly
20 maintained small wireless facilities, including those
21 that an authority determines need to be removed to
22 protect public health, safety, and welfare,
- 23 b. restore the right-of-way in connection with removals
24 initiated under this paragraph, or

1 c. recoup rates or fees that have not been paid by a
2 wireless provider in over twelve (12) months, so long
3 as the wireless provider has received reasonable
4 notice from the authority of any of the non-compliance
5 listed above and is given an opportunity to cure the
6 non-compliance;

7 2. An authority shall not require either of the following:

8 a. a cash bond, unless any of the following apply:

9 (1) the wireless provider has failed to obtain or

10 maintain a bond required under this section, or

11 (2) the surety has defaulted or failed to perform on

12 a bond given to the authority on behalf of the

13 wireless provider,

14 b. a bond in an amount exceeding One Thousand Dollars

15 (\$1,000.00) per small wireless facility.

16 SECTION 13. This act shall become effective November 1, 2018.

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