

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1388

By: Treat

4  
5  
6 AS INTRODUCED

7 An Act relating to telecommunications; creating the  
8 Oklahoma Small Wireless Facilities Deployment Act;  
9 stating Legislative findings; defining terms;  
10 establishing procedures for the deployment of small  
11 wireless facilities and utility poles within a right-  
12 of-way; establishing the permitting process for  
13 wireless providers utilizing small wireless  
14 facilities in certain areas; establishing permitting  
15 process for wireless providers installing and  
16 maintaining utility polls in certain areas;  
17 establishing exceptions to the permitting process;  
18 establishing procedures for wireless provider access  
19 to utility polls in certain areas; establishing  
20 permissible rates and fees for certain activities  
21 related to small wireless facility deployment;  
22 exempting certain entities from application of act;  
23 establishing procedures for agreements and ordinances  
24 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.

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

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

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

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

9 The Legislature finds that:

10 1. Wireless and broadband products and services are a  
11 significant and continually growing part of the state's economy;  
12 accordingly, encouraging the development of strong and robust  
13 wireless and broadband communications networks throughout the state  
14 is integral to the state's economic competitiveness;

15 2. Rapid deployment of small wireless facilities will serve  
16 numerous important statewide goals of meeting growing consumer  
17 demand for wireless data, increasing competitive options for  
18 communications services available to the state's residents,  
19 promoting the ability of the state's citizens to communicate with  
20 other citizens and with their state and local governments, and  
21 promoting public safety;

22 3. Small wireless facilities, including facilities commonly  
23 referred to as small cells and distributed antenna systems, often  
24 may be deployed most effectively in the rights-of-way;

1           4. To meet the key objectives of the Oklahoma Small Wireless  
2 Facilities Deployment Act, wireless providers must have access to  
3 the rights of way and the ability to attach to infrastructure in the  
4 rights of way to densify their networks and provide next generation  
5 wireless services;

6           5. Uniform rates and fees for the permitting and deployment of  
7 small wireless facilities in rights-of-way and on authority  
8 infrastructure, including poles, throughout the state is reasonable  
9 and will encourage the development of robust next-generation  
10 wireless and broadband networks for the benefit of citizens  
11 throughout the state; and

12           6. The rates and fees in this act are fair and reasonable when  
13 viewed from the perspective of the state's citizens and the state's  
14 interest in having robust, reliable and technologically advanced  
15 wireless and broadband networks; and reflect a balancing of the  
16 interests of the wireless providers deploying new facilities and the  
17 interests of authorities in recovering their costs of managing  
18 access to the rights of way and the attachment space provided on  
19 authority infrastructure and receiving the fair value of such rights  
20 of way.

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

24

1 As used in the Oklahoma Small Wireless Facilities Deployment

2 Act:

3 1. "Antenna" means communications equipment that transmits or  
4 receives electromagnetic radio frequency signals used in the  
5 provision of wireless services;

6 2. "Applicable codes" means uniform building, fire, electrical,  
7 plumbing or mechanical codes adopted by a recognized national code  
8 organization or local amendments to those codes enacted solely to  
9 address imminent threats of destruction of property or injury to  
10 Persons to the extent not inconsistent with this act;

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

13 4. "Application" means a request submitted by an applicant to  
14 an authority:

15 a. for a permit to collocate small wireless facilities,  
16 or

17 b. to approve the installation, modification or  
18 replacement of a utility pole or wireless support  
19 structure;

20 5. "Authority" means the state or any agency, county,  
21 municipality, district or subdivision thereof or any instrumentality  
22 of the same, including, but not limited to public utility districts,  
23 public trusts, irrigation districts and municipal electric  
24

1 utilities. The term shall not include state courts having  
2 jurisdiction over an authority;

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

5 7. "Authority wireless support structure" means a wireless  
6 support structure owned, managed or operated by or on behalf of an  
7 authority;

8 8. "Base station" means wireless facilities or a wireless  
9 support structure or utility pole that currently supports wireless  
10 facilities. The term does not include a tower, as defined in 47  
11 U.S.C. § 1.40001(b) (9), and the associated wireless facilities;

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

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

20 11. "Decorative pole" means an authority pole that is specially  
21 designed and placed for aesthetic purposes and on which no  
22 appurtenances or attachments, other than a small wireless facility  
23 or specially designed informational or directional signage or  
24 temporary holiday or special event attachments, have been placed or

1 are permitted to be placed according to nondiscriminatory municipal  
2 rules or codes;

3 12. "FCC" means the Federal Communications Commission of the  
4 United States;

5 13. "Fee" means a one-time, nonrecurring charge;

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

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

16 16. "Micro wireless facility" means a small wireless facility  
17 that meets the following qualifications:

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

21 (b) any exterior antenna is no longer than eleven (11)  
22 inches;

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24

1 17. "Permit" means a written authorization required by an  
2 authority to perform an action or initiate, continue, or complete a  
3 project;

4 18. "Person" means an individual, corporation, limited  
5 liability company, partnership, association, trust or other entity  
6 or organization, including an authority.

7 19. "Rate" means a recurring charge;

8 20. "Right(s)-of-way" means the area on, below or above a  
9 public roadway, highway, street, sidewalk, alley, utility easement  
10 or similar property, but not including a federal interstate highway;

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

- 13 a. each antenna of the wireless provider could fit within  
14 an enclosure of no more than six (6) cubic feet in  
15 volume, and
- 16 b. all other wireless equipment associated with the  
17 wireless facility, whether ground or pole-mounted, is  
18 cumulatively no more than twenty-eight (28) cubic feet  
19 in volume. The following types of associated ancillary  
20 equipment are not included in the calculation of  
21 equipment volume: electric meter, concealment  
22 elements, telecommunications demarcation box,  
23 grounding equipment, power transfer switch, cut-off  
24

1 switch and vertical cable runs for the connection of  
2 power and other services;

3 22. "Substantial modification" means a proposed modification or  
4 replacement to an existing wireless support structure or base  
5 station which will substantially change the physical dimensions of  
6 the wireless support structure or base station under the objective  
7 standard for substantial change adopted by the Federal  
8 Communications Commission pursuant to 47 C.F.R. § 1.40001, or a  
9 proposed modification of the equipment compound boundaries in excess  
10 of the site dimensions specified in Section III.B of 47 C.F.R. Part  
11 1, Appendix C;

12 23. "Technically feasible" means that by virtue of engineering  
13 or spectrum usage the proposed placement for a small wireless  
14 facility, or its design or site location can be implemented without  
15 a reduction in the functionality of the small wireless facility;

16 24. "Utility pole" means a pole or similar structure that is or  
17 may be used in whole or in part by or for wireline communications,  
18 electric distribution, lighting, traffic control, signage or a  
19 similar function, or for the collocation of small wireless  
20 facilities; provided, however, such term shall not include wireless  
21 support structures or electric transmission structures;

22 25. "Wireless facility" means equipment at a fixed location  
23 that enables wireless communications between user equipment and a  
24 communications network, including: (a) equipment associated with

1 wireless communications; and (b) radio transceivers, antennas,  
2 coaxial or fiber-optic cable, regular and backup power supplies, and  
3 comparable equipment, regardless of technological configuration. The  
4 term includes small wireless facilities. The term does not include:

5 a. the structure or improvements on, under, or within  
6 which the equipment is collocated, or

7 b. coaxial or fiber-optic cable that is between wireless  
8 structures or utility poles or that is otherwise not  
9 immediately adjacent to or directly associated with a  
10 particular antenna;

11 26. "Wireless infrastructure provider" means any person,  
12 including a person authorized to provide telecommunications service  
13 in the state, that builds or installs wireless communication  
14 transmission equipment, wireless facilities or wireless support  
15 structures, but that is not a wireless services provider;

16 27. "Wireless provider" means a wireless infrastructure  
17 provider or a wireless services provider;

18 28. "Wireless services" means any services, whether at a fixed  
19 location or mobile, provided to the public using wireless  
20 facilities;

21 29. "Wireless services provider" means a person who provides  
22 wireless services; and

23 30. "Wireless support structure" means a structure, such as a  
24 monopole; tower, either guyed or self-supporting; billboard;

1 building; or other existing or proposed structure designed to  
2 support or capable of supporting wireless facilities, other than a  
3 structure designed solely for the collocation of small wireless  
4 facilities. Such term shall not include a utility pole.

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

8 A. The provisions of this section shall only apply to  
9 activities of a wireless provider within the rights-of-way to deploy  
10 small wireless facilities and associated utility poles.

11 B. An authority may not enter into an exclusive arrangement  
12 with any person for use of the rights of way for the collocation of  
13 small wireless facilities or the installation, operation, marketing,  
14 modification, maintenance, or replacement of utility poles.

15 C. An authority may only charge a wireless provider a rate or  
16 fee for the use of the rights of way with respect to the collocation  
17 of small wireless facilities or the installation, maintenance,  
18 modification, operation or replacement of a utility pole in the  
19 right-of-way, if the authority charges other entities for use of the  
20 rights-of-way. Notwithstanding the foregoing, an authority is  
21 permitted, on a nondiscriminatory basis, to refrain from charging  
22 any rate to a wireless provider for the use of the right-of-way. The  
23 rate for use of the right-of-way is provided in Section 7 of this  
24 act.

1 D. Subject to the provisions of this section, a wireless  
2 provider shall have the right, as a permitted use not subject to  
3 zoning review or approval, to collocate small wireless facilities  
4 and install, maintain, modify, operate and replace utility poles  
5 along, across, upon, and under the rights-of-way. Such structures  
6 and facilities shall be so installed and maintained as not to  
7 obstruct or hinder the usual travel or public safety on such right-  
8 of-way or obstruct the legal use of such right-of-way by utilities.

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

- 11 1. Ten (10) feet in height above the tallest existing utility  
12 pole in place as of the effective date of this act located within  
13 five hundred (500) feet of the new pole in the same right-of-way; or
- 14 2. Fifty (50) feet above ground level.

15 New small wireless facilities in the right-of-way may not extend  
16 more than ten (10) feet above an existing utility pole in place as  
17 of the effective date of this act or, for small wireless facilities  
18 on a new utility pole, above the height permitted for a new utility  
19 pole under this section. Subject to this section and Section 6 of  
20 this act, 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 these height limits along,  
23 across, upon and under the right-of-way, subject to applicable  
24 zoning regulations.

1 F. A wireless provider shall be permitted to replace decorative  
2 poles when necessary to collocate a small wireless facility, but any  
3 replacement pole shall reasonably conform to the design aesthetics  
4 of the decorative pole(s) being replaced.

5 G. Wireless providers shall comply with reasonable and  
6 nondiscriminatory requirements that prohibit communications service  
7 providers from installing structures in the right-of-way in an area  
8 designated solely for underground or buried cable and utility  
9 facilities where:

10 1. The authority has required all cable and utility facilities  
11 other than authority poles and attachments to be placed underground  
12 by a date certain that is three (3) months prior to the submission  
13 of the application;

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

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

20 H. Subject to Section 5 of this act, subsection D of this  
21 section, and except for facilities excluded from evaluation for  
22 effects on historic properties under 47 C.F.R. § 1.1307(a)(4) of the  
23 FCC rules, an authority may require reasonable, technically  
24 feasible, non-discriminatory and technologically neutral design or

1 concealment measures in a historic district. Any such design or  
2 concealment measures may not have the effect of prohibiting any  
3 provider's technology; nor may any such measures be considered a  
4 part of the small wireless facility for purposes of the size  
5 restrictions in the definition of small wireless facility.

6 I. The authority, in the exercise of its administration and  
7 regulation related to the management of the right-of-way, must be  
8 competitively neutral with regard to other users of the right-of-  
9 way, including that terms may not be unreasonable or discriminatory  
10 and may not violate any applicable law.

11 J. The authority may require a wireless provider to repair all  
12 damage to the right-of-way directly caused by the activities of the  
13 wireless provider in the right-of-way and to return the right-of-way  
14 to its functional equivalence before the damage pursuant to the  
15 competitively neutral, reasonable requirements and specifications of  
16 the authority. If the wireless provider fails to make the repairs  
17 required by the authority within a reasonable time after written  
18 notice, the authority may affect those repairs and charge the  
19 applicable party the reasonable, documented cost of such repairs.

20 K. New, modified or replacement utility poles associated with a  
21 small wireless facility that meet the requirements of this section  
22 are permitted uses subject to the permit process pursuant to  
23 subsection D of Section 5 of this act.

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

4           A. The provisions of this section shall apply to the permitting  
5 of small wireless facilities by a wireless provider in or outside  
6 the right-of-way as specified in subsection C of this section and to  
7 the permitting of the installation, modification, and replacement of  
8 utility poles by a wireless provider inside the right-of-way.

9           B. Except as provided in this section and Sections 4, 6, 7, 8  
10 and 9 of this act, an authority may not prohibit, regulate, or  
11 charge for the collocation of small wireless facilities.

12           C. Small wireless facilities shall be classified as permitted  
13 uses and not subject to zoning review or approval if they are  
14 collocated in the right-of-way in any zone or outside the right-of-  
15 way in property not zoned exclusively for single family residential  
16 use.

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

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

5           2. An applicant shall not be required to provide more  
6 information to obtain a permit than communications service providers  
7 that are not wireless providers, provided that an applicant may be  
8 required to include construction and engineering drawings and  
9 information demonstrating compliance with the criteria in paragraph  
10 8 of this subsection;

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 ten (10) 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 subsection 7 of this section is  
3 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 sixty (60) 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 requirements in subsection E of Section  
14 4 of this act only if the proposed application:

- 15 a. materially interferes with the safe operation of  
16 traffic control equipment,
- 17 b. materially interferes with sight lines or clear zones  
18 for transportation or pedestrians,
- 19 c. materially interferes with compliance with the  
20 Americans with Disabilities Act or similar federal or  
21 state standards regarding pedestrian access or  
22 movement,
- 23 d. fails to comply with reasonable and nondiscriminatory  
24 spacing requirements of general application adopted by

1 ordinance that concern the location of ground-mounted  
2 equipment and new Utility Poles. Such spacing  
3 requirements shall not prevent a Wireless Provider  
4 from serving any location, or

5 e. fails to comply with applicable codes;

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

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

23 11. Installation or collocation for which a permit is granted  
24 pursuant to this section shall be completed within one year of after

1 the permit issuance date unless the authority and the applicant  
2 agree to extend this period or a delay is caused by the lack of  
3 commercial power or communications facilities at the site. Approval  
4 of an application authorizes the applicant to:

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

14 12. An authority may not institute, either expressly or de  
15 facto, a moratorium on:

- 16 a. filing, receiving, or processing applications, or
- 17 b. issuing permits or other approvals, if any, for the  
18 collocation of small wireless facilities or the  
19 installation, modification, or replacement of utility  
20 poles to support small wireless facilities.

21 E. An authority shall not require an application for the  
22 following:

- 23 1. Routine maintenance;

24

1           2. The replacement of small wireless facilities with small  
2 wireless facilities that are substantially similar or the same size  
3 or smaller; or

4           3. For the installation, placement, maintenance, operation, or  
5 replacement of micro wireless facilities that are strung on cables  
6 between existing utility poles, in compliance with the National  
7 Electrical Safety Code.

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

12           SECTION 6.           NEW LAW           A new section of law to be codified  
13 in the Oklahoma Statutes as Section 36-506 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 activities of  
16 the wireless provider within the right-of-way.

17           B. A person owning, managing, or controlling authority poles in  
18 the right-of-way may not enter into an exclusive arrangement with  
19 any person for the right to attach to such poles. A person who  
20 purchases or otherwise acquires an authority pole is subject to the  
21 requirements of this section.

22           C. An authority shall allow the collocation of small wireless  
23 facilities on authority poles using the process in Section 5 of this  
24 act.

1 D. The rates to collocate on authority poles shall be  
2 nondiscriminatory regardless of the services provided by the  
3 collocating person. The rate to collocate on authority poles is  
4 provided in Section 7 of this act.

5 E. The rates, fees, and terms and conditions for the make-ready  
6 work to collocate on an authority pole shall be nondiscriminatory,  
7 competitively neutral, and commercially reasonable and must comply  
8 with this act.

9 The authority shall provide a good faith estimate for any make-  
10 ready work necessary to enable the pole to support the requested  
11 collocation by a wireless provider, including pole replacement if  
12 necessary, within sixty (60) days after receipt of a complete  
13 application. Make-ready work including any pole replacement shall  
14 be completed within sixty (60) days of written acceptance of the  
15 good faith estimate by the applicant. An authority may require  
16 replacement of the authority pole only if it demonstrates that the  
17 collocation would make the authority pole structurally unsound.

18 The person owning, managing, or controlling the authority pole  
19 shall not require more make-ready work than required to meet  
20 applicable codes or industry standards. Fees for make-ready work  
21 shall not include costs related to pre-existing or prior damage or  
22 noncompliance. Fees for make-ready work including any pole  
23 replacement shall not exceed actual costs or the amount charged to  
24

1 other communications service providers for similar work and shall  
2 not include any consultants' fees or expenses.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 36-507 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. Where costs to be recovered by an application fee are  
22 already recovered by existing fees, rates, licenses or taxes paid by  
23 a wireless provider, no application fee shall be assessed;

24 3. An application fee may not include:

- a. travel expenses incurred by a third party in its review of an application, or
- b. direct payment or reimbursement of third-party rates or fees charged on a contingency basis or a result-based arrangement;

4. An application fee for a collocation shall be limited to the cost of granting a building permit for similar types of commercial development or construction within the authority's jurisdiction. The application and permit fees for collocation of small wireless facilities on an existing or replacement authority pole shall not exceed One Hundred Dollars (\$100.00) each for the first five (5) small wireless facilities on the same application and Fifty Dollars (\$50.00) for each additional small wireless facility on the same application;

5. The application and permit fees for the installation, modification or replacement of a utility pole and the collocation of an associated small wireless facility that are permitted uses in accordance with the specifications in subsection D of Section 4 of this act shall not exceed Two Hundred Fifty Dollars (\$250.00) per pole for access to the right-of-way; and

6. An application fee for the installation, modification or replacement of a new wireless support structure, a substantial modification, or a new utility pole associated with a small wireless facility that is not a permitted use in accordance with the

1 specifications in subsection D of Section 4 of this act shall not  
2 exceed One Thousand Dollars (\$1,000.00).

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

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

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

14 SECTION 9. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 36-509 of Title 11, unless there  
16 is created a duplication in numbering, reads as follows:

17 Subject to the provisions of this act and applicable federal  
18 law, an authority may continue to exercise zoning, land use,  
19 planning and permitting authority within its territorial boundaries,  
20 including with respect to wireless support structures and utility  
21 poles; except that no authority shall have or exercise any  
22 jurisdiction or authority over the design, engineering,  
23 construction, installation, or operation of any small wireless  
24 facility located in an interior structure or upon the site of any

1 campus, stadium, or athletic facility not owned or controlled by the  
2 authority, other than to comply with applicable codes, and an  
3 authority shall evaluate the structure classification for wireless  
4 support structures under the latest version of ANSI/TIA-222.  
5 Nothing in this act authorizes the state or any political  
6 subdivision, including an authority, to require wireless facility  
7 deployment or to regulate wireless services.

8 SECTION 10. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 36-510 of Title 11, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. An authority may adopt an ordinance that makes available to  
12 wireless providers rates, fees, and other terms that comply with  
13 this act. Subject to subsections B, C and D of this section, in the  
14 absence of an ordinance that fully complies with this act and until  
15 such a compliant ordinance is adopted, if at all, wireless providers  
16 may install and operate small wireless facilities and utility poles  
17 under the requirements of this act. An authority and a wireless  
18 provider may enter into an agreement implementing this act, but an  
19 authority may not require a wireless provider to enter into such an  
20 agreement.

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

24

1 C. An agreement or ordinance that does not fully comply with  
2 this act may apply only to small wireless facilities and utility  
3 poles that became operational or were installed before the effective  
4 date of this act. Such an agreement or ordinance may not be  
5 renewed, or extended, unless it is modified to fully comply with  
6 this act. An agreement or ordinance that applies to small wireless  
7 facilities and utility poles that became operational or were  
8 constructed before the effective date of this act is invalid and  
9 unenforceable beginning on the one hundred eighty first day after  
10 the effective date of this act unless it fully complies with this  
11 act. If an agreement or ordinance is invalid in accordance with  
12 this subsection, in the absence of an agreement or ordinance that  
13 fully complies with this act and until such a compliant agreement or  
14 ordinance is entered or adopted, small wireless facilities and  
15 utility poles that become operational or were constructed before the  
16 effective date of this act may remain installed and be operated  
17 under the requirements of this act.

18 D. An agreement or ordinance that applies to small wireless  
19 facilities and utility poles that become operational on or after the  
20 effective date of this act is invalid and unenforceable beginning on  
21 the effective date of this act unless it fully complies with this  
22 act. If an agreement or ordinance is invalid in accordance with  
23 this subsection, in the absence of an agreement or ordinance that  
24 fully complies with this act and until such a compliant agreement or

1 ordinance is entered or adopted, small wireless facilities and  
2 utility poles may be installed and operated in the right-of-way or  
3 become operational under the requirements of this act.

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

7 The Corporation Commission, binding arbitration, or a court of  
8 competent jurisdiction shall have jurisdiction to determine all  
9 disputes arising under this act. Pending resolution of a dispute  
10 concerning rates for collocation of small wireless facilities on  
11 authority poles and non-authority poles, the person owning or  
12 controlling the pole shall allow the collocating person to collocate  
13 on its poles at annual rates of no more than Twenty Dollars (\$20.00)  
14 with rates to be trued up upon final resolution of the dispute.  
15 Complaints shall be resolved no later than one hundred eighty (180)  
16 days after a complaint or petition is filed.

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

20 A. An authority may adopt indemnification, insurance and  
21 bonding requirements related to small wireless facility permits  
22 subject to the requirements of this section.

23 B. An authority shall not require a wireless provider to  
24 indemnify and hold the authority and its officers and employees

1 harmless against any claims, lawsuits, judgments, costs, liens,  
2 losses, expenses or fees, except when a court of competent  
3 jurisdiction has found that the negligence of the wireless provider  
4 while installing, repairing, or maintaining caused the harm that  
5 created such claims, lawsuits, judgments, costs, liens, losses,  
6 expenses, or fees.

7 C. An authority may require a wireless provider to have in  
8 effect insurance coverage consistent with subsection A of this  
9 section, so long as the authority imposes similar requirements on  
10 other rights of way users and such requirements are reasonable and  
11 nondiscriminatory.

12 D. An authority may not require a wireless provider to obtain  
13 insurance naming the authority or its officers and employees an  
14 additional insured.

15 E. An authority may require a wireless provider to furnish  
16 proof of insurance, if required, prior to the effective date of any  
17 permit issued for a small wireless facility.

18 F. An authority may adopt bonding requirements for small  
19 wireless facilities if the authority imposes similar requirements in  
20 connection with permits issued for other rights of way users.

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

22 a. provide for the removal of abandoned or improperly  
23 maintained small wireless facilities, including those  
24

1 that an authority determines need to be removed to  
2 protect public health, safety, or welfare,

3 b. restoration of the right-of-way in connection with  
4 removals under this paragraph, or

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

10 2. Bonding requirements may not exceed Two Hundred Dollars  
11 (\$200.00) per small wireless facility. For wireless providers with  
12 multiple small wireless facilities within the jurisdiction of a  
13 single authority, the total bond amount across all facilities may  
14 not exceed Ten Thousand Dollars (\$10,000.00), which amount may be  
15 combined into one bond instrument.

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

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