

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1122

By: Phillips of the House

and

Leewright of the Senate

7 [telecommunications - imposing maximum charges with
8 respect to certain connections to utility poles -
9 requiring payment by rural electric cooperatives
10 for certain relocations - effective date]

13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

15 "[telecommunications - imposing maximum charges with
16 respect to certain connections to utility poles -
17 requiring payment by communications service providers
for certain relocations - providing formula -
codification - effective date]

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 437.35 of Title 18, unless there
23 is created a duplication in numbering, reads as follows:

1 A. Except as otherwise provided in this section, when a rural
2 electric cooperative and a communications services provider cannot
3 agree to a voluntary negotiated pole attachment rate, the maximum
4 pole attachment rate shall be governed by the following formula:

5 Maximum Per Pole Rate = Space Factor X Net Cost of Bare Pole X
6 Carrying Charge Rate

7 Space Factor = (Occupied Space + ((2/3 X Unusable Space)/No. of
8 Attaching Entities)) ÷ Pole Height

9 Net Pole Investment = Gross Pole Investment (Account 364) -
10 Accumulated Depreciation (Poles)

11 Carrying Charges = Administrative + Maintenance + Depreciation +
12 Taxes + Return

13 Administrative = Total Admin and General Expense ÷ Net Plant

14 Maintenance = Account 593 Expense ÷ Net Distribution Overhead
15 Investment

16 Depreciation = Gross Pole Investment ÷ Net Pole Investment X
17 Depreciation

18 Taxes = Account 408.1 (Gross Receipts Tax) ÷ Net Plant

19 Presumptive Default Values

20 Occupied Space = 1 ft

21 Unusable Space = 27.33 ft

22 No. of Attachers = 2.1

23 Pole Height = 37.5 ft

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1 Net Cost of Bare Pole = 85% of Net Pole Investment ÷
2 Total Number of Poles

3 Return = 8%

4 This subsection shall not apply to any pole attachments
5 authorized under currently existing and valid pole attachment
6 agreements entered into prior to the effective date of this section.
7 The determination of a maximum attachment rate does not remove the
8 requirement of a communications services provider to have a valid
9 pole attachment agreement with the owner of the poles prior to
10 attaching.

11 B. Notwithstanding the maximum pole attachment rate determined
12 in the previous subsection of this section, beginning on the
13 effective date on this act and for five (5) years thereafter, the
14 rates charged by a rural electric cooperative for new attachments to
15 cooperative-owned electric poles by any communications services
16 provider, or any cooperative affiliate entity or subsidiary company,
17 under pole attachment license agreements entered into on or after
18 the effective date of this act, shall not exceed One Dollar (\$1.00)
19 per cooperative-owned electric pole per year ("One Buck Deal")
20 contingent upon the following:

21 1. Applicable attaching providers shall not have an existing
22 attachment on the specific electric pole subject to the One Buck
23 Deal;

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1 2. New attachments subject to the One Buck Deal shall be used
2 to serve a cooperative's members located within the applicable
3 cooperative's certified territory established under the Retail
4 Electric Supplier Certified Territory Act and is in an unserved area
5 as defined by the Oklahoma Broadband Service Map compiled by the
6 Oklahoma Department of Commerce;

7 3. One Buck Deal attachments shall be capable of providing
8 wire-line broadband service at speeds of one hundred (100) megabits
9 per second download and twenty (20) megabits per second upload; and

10 4. Within sixty (60) days of the end of each fiscal year,
11 applicable attaching providers shall submit written reports and
12 information to the appropriate electric cooperative evidencing
13 compliance with all One Buck Deal attachment requirements.

14 C. The rates provided in this section shall not include any
15 applicable charges for electric service. A communications services
16 provider must pay separately for electric service and such service
17 shall be charged to providers at the applicable retail market rate.

18 D. The monetary cap provided under subsection A of this section
19 and for the "One Buck Deal" provided under subsection B of this
20 section shall not eliminate the requirement of communications
21 services providers to contract with the cooperatives on terms and
22 conditions of attachments under pole attachment license agreements.

23 E. Any communications services provider whose attachment to a
24 pole results in the relocation of another party's compliant and

1 existing attachments, equipment or other facilities shall pay the
2 other party's relocation costs including pole replacement costs, if
3 necessary.

4 F. Any rural electric cooperative that provides
5 telecommunications carrier or internet services shall charge itself,
6 or its affiliate or subsidiary providing the services under a pole
7 attachment license agreement entered into and effective on or after
8 the effective date of this act, a pole attachment rate equal to the
9 highest rate being paid to the applicable cooperative by any other
10 telecommunications or internet service provider for compliant and
11 authorized attachments under agreements entered into and effective
12 on or after the effective date of this act, unless such service
13 satisfies the contingents specified in paragraphs 2 and 3 of
14 subsection B of this section.

15 G. This section shall not apply to any communications services
16 provider that maintains unauthorized pole attachments on cooperative
17 poles or fails to remedy any noncompliant pole attachments per the
18 cooperative's direction.

19 H. The Oklahoma Corporation Commission shall have exclusive
20 jurisdiction regarding disputes which may arise under the provisions
21 of this section.

22 SECTION 2. This act shall become effective November 1, 2021."
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1 Passed the Senate the 22nd day of April, 2021.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

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8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1122

By: Phillips of the House

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6 [telecommunications - imposing maximum charges with
7 respect to certain connections to utility poles -
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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 437.35 of Title 18, unless there
16 is created a duplication in numbering, reads as follows:

17 A. The rates charged by a rural electric cooperative for
18 attachments to utility poles by communications services providers
19 shall not exceed Twenty-one Dollars (\$21.00) per rural-electric-
20 cooperative-owned pole per year. This rate may be adjusted by ten
21 percent (10%) rounded to the nearest dollar, every five (5) years.

22 B. The rates provided in this section do not include any
23 applicable charges for electric power. A communications services
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1 provider must pay separately for such services and such services
2 shall be at market rate.

3 C. The monetary cap provided for in this section does not
4 eliminate the requirement of pole attachers to contract with the
5 cooperatives on terms and conditions of attachments.

6 D. Any rural electric cooperative that attaches to a pole that
7 results in the relocations of a communications services provider's
8 existing attachment, provided that such attachment was previously in
9 compliance with all agreed upon safety and contractual standards,
10 shall pay for the cost of the relocation of the communications
11 services provider's attachment, including pole replacement if
12 necessary.

13 SECTION 4. This act shall become effective November 1, 2021.

14 Passed the House of Representatives the 9th day of March, 2021.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2021.

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Presiding Officer of the Senate

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