

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 1122, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Leewright

Leewright-NP-FS-Req#2105
4/21/2021 11:04 AM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 1122

By: Phillips of the House

and

Leewright of the Senate

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9 FLOOR SUBSTITUTE

10 [telecommunications - imposing maximum charges with
11 respect to certain connections to utility poles -
12 requiring payment by communications service providers
for certain relocations - providing formula -
codification - effective date]

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

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

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

23 Maximum Per Pole Rate = Space Factor X Net Cost of Bare Pole X
24 Carrying Charge Rate

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

3 Net Pole Investment = Gross Pole Investment (Account 364)-
4 Accumulated Depreciation (Poles)

5 Carrying Charges = Administrative + Maintenance + Depreciation +
6 Taxes + Return

7 Administrative = Total Admin and General Expense ÷ Net Plant

8 Maintenance = Account 593 Expense ÷ Net Distribution Overhead
9 Investment

10 Depreciation = Gross Pole Investment ÷ Net Pole Investment X
11 Depreciation

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

13 Presumptive Default Values

14 Occupied Space = 1 ft

15 Unusable Space = 27.33 ft

16 No. of Attachers = 2.1

17 Pole Height = 37.5 ft

18 Net Cost of Bare Pole = 85% of Net Pole Investment ÷

19 Total Number of Poles

20 Return = 8%

21 This subsection shall not apply to any pole attachments
22 authorized under currently existing and valid pole attachment
23 agreements entered into prior to the effective date of this section.
24 The determination of a maximum attachment rate does not remove the

1 requirement of a communications services provider to have a valid
2 pole attachment agreement with the owner of the poles prior to
3 attaching.

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

14 1. Applicable attaching providers shall not have an existing
15 attachment on the specific electric pole subject to the One Buck
16 Deal;

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

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

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

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

12 D. The monetary cap provided under subsection A of this section
13 and for the "One Buck Deal" provided under subsection B of this
14 section shall not eliminate the requirement of communications
15 services providers to contract with the cooperatives on terms and
16 conditions of attachments under pole attachment license agreements.

17 E. Any communications services provider whose attachment to a
18 pole results in the relocation of another party's compliant and
19 existing attachments, equipment or other facilities shall pay the
20 other party's relocation costs including pole replacement costs, if
21 necessary.

22 F. Any rural electric cooperative that provides
23 telecommunications carrier or internet services shall charge itself,
24 or its affiliate or subsidiary providing the services under a pole

1 attachment license agreement entered into and effective on or after
2 the effective date of this act, a pole attachment rate equal to the
3 highest rate being paid to the applicable cooperative by any other
4 telecommunications or internet service provider for compliant and
5 authorized attachments under agreements entered into and effective
6 on or after the effective date of this act, unless such service
7 satisfies the contingents specified in paragraphs 2 and 3 of
8 subsection B of this section.

9 G. This section shall not apply to any communications services
10 provider that maintains unauthorized pole attachments on cooperative
11 poles or fails to remedy any noncompliant pole attachments per the
12 cooperative's direction.

13 H. The Oklahoma Corporation Commission shall have exclusive
14 jurisdiction regarding disputes which may arise under the provisions
15 of this section.

16 SECTION 2. This act shall become effective November 1, 2021.

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18 58-1-2105 NP 4/21/2021 11:04:40 AM

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