

1 ENGROSSED HOUSE
2 BILL NO. 2957

By: Thomsen of the House

3 and

4 Treat of the Senate

5
6
7 [telecommunications - creating the Oklahoma Small
8 Wireless Facilities Deployment Act - effective date]
9

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

20 As used in the Oklahoma Small Wireless Facilities Deployment
21 Act:

22 1. "Antenna" means communications equipment that transmits or
23 receives electromagnetic radio frequency signals used in the
24 provision of wireless services;

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

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

8 4. "Application" means a request submitted by an applicant to
9 an authority:

10 a. for a permit to collocate small wireless facilities,

11 or

12 b. to approve the installation, modification or
13 replacement of a utility pole or wireless support
14 structure;

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

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

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

23 8. "Communications service provider" means a cable operator as
24 defined in 47 U.S.C., Section 522(5), a provider of information

1 service as defined in 47 U.S.C., Section 153(24), a
2 telecommunications carrier as defined in 47 U.S.C., Section 153(51),
3 or a wireless provider;

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

11 10. "FCC" means the Federal Communications Commission of the
12 United States;

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

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

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

24

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

3 a. is not larger in dimension than twenty-four (24)
4 inches in length, fifteen (15) inches in width, and
5 twelve (12) inches in height, and

6 b. any exterior antenna is no longer than eleven (11)
7 inches;

8 15. "Permit" means a written authorization required by an
9 authority to perform an action or initiate, continue, or complete a
10 project;

11 16. "Person" means an individual, corporation, limited
12 liability company, partnership, association, trust or other entity
13 or organization, including an authority;

14 17. "Rate" means a recurring charge;

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

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

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

1 b. all other wireless equipment associated with the
2 wireless facility, whether ground or pole-mounted, is
3 cumulatively no more than twenty-eight (28) cubic feet
4 in volume. The following types of associated
5 ancillary equipment are not included in the
6 calculation of equipment volume: electric meter,
7 concealment elements, telecommunications demarcation
8 box, grounding equipment, power transfer switch, cut-
9 off switch and vertical cable runs for the connection
10 of power and other services;

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

15 21. "Utility pole" means a pole or similar structure that is or
16 may be used in whole or in part by or for wireline communications,
17 electric distribution, lighting, traffic control, signage or a
18 similar function, or for the collocation of small wireless
19 facilities; provided, however, such term shall not include wireless
20 support structures or electric transmission structures. Utility
21 poles controlled by an investor-owned electric utility or electric
22 cooperative are subject to Section 7 of this act;

23 22. "Wireless facility" means equipment at a fixed location
24 that enables wireless communications between user equipment and a

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

- 7 a. the structure or improvements on, under or within
8 which the equipment is collocated, or
- 9 b. coaxial or fiber-optic cable that is between wireless
10 support structures or utility poles or that is
11 otherwise not immediately adjacent to or directly
12 associated with a particular antenna;

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

18 24. "Wireless provider" means a wireless infrastructure
19 provider or a wireless services provider;

20 25. "Wireless services" means any services, whether at a fixed
21 location or mobile, provided to the public using wireless
22 facilities;

23 26. "Wireless services provider" means a person who provides
24 wireless services; and

1 27. "Wireless support structure" means a structure, such as a
2 monopole; tower, either guyed or self-supporting; billboard;
3 building or other existing or proposed structure designed to support
4 or capable of supporting wireless facilities other than a structure
5 designed solely for the collocation of small wireless facilities.
6 Such term shall not include a utility pole.

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

10 A. The provisions of this section shall only apply to the
11 collocation of small wireless facilities by wireless provider in the
12 rights-of-way and the deployment of utility poles to support small
13 wireless facilities by a wireless provider in the rights-of-way.

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

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

1 any rate to a wireless provider for the use of the right-of-way.
2 The rate for use of the right-of-way is provided in Section 6 of
3 this act.

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

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

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

20 New small wireless facilities in the right-of-way may not extend
21 more than ten (10) feet above an existing utility pole in place as
22 of the effective date of this act or, for small wireless facilities
23 on a new utility pole, above the height permitted for a new utility
24 pole under this section.

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

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

1 H. Wireless providers shall comply with reasonable and
2 nondiscriminatory requirements that prohibit communications service
3 providers from installing structures in the right-of-way in an area
4 designated solely for underground or buried cable and utility
5 facilities where:

6 1. The authority has required all cable and utility facilities
7 other than authority poles and attachments to be placed underground
8 (i) by a date certain before the application is submitted or (ii) by
9 a date certain within two (2) years after the application is
10 submitted, if relocation of facilities has commenced;

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

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

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

1 part of the small wireless facility for purposes of the size
2 restrictions in the definition of small wireless facility.

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

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

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

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

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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 in 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 3 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 systems 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,

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- 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. with respect to ground-mounted equipment, fails to
11 comply with reasonable and nondiscriminatory
12 requirements of general application adopted by
13 ordinance that concern spacing of the ground-mounted
14 equipment; interference with sight lines, clear zones
15 or pedestrian access or movement; unhindered use of
16 the ROW by other ROW occupants, including the
17 authority; or objective concealment measures in a
18 historic district,
- 19 g. fails to comply with applicable codes, including
20 without limitation the most recent version of the
21 National Electric Safety Code,
- 22 h. fails to comply with subsections D, G, H and I of
23 Section 3 of this act, or
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1 i. causes the utility pole or wireless support structure
2 to become structurally unsound, unless the applicant
3 demonstrates that it will address the problem
4 adequately, such as by modifying or replacing the
5 structure;

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 for
18 the collocation of up to twenty-five small wireless facilities and
19 receive a single permit; provided, however, the denial of one or
20 more small wireless facilities in a consolidated application shall
21 not delay processing of any other small wireless facilities in the
22 same batch;

23 11. Installation or collocation for which a permit is granted
24 pursuant to this section shall be completed within one (1) year

1 after the permit issuance date, unless the authority and the
2 applicant agree to extend this period, or a delay is caused by the
3 lack of commercial power or communications facilities at the site.

4 Approval 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. Wireless providers shall comply with relocation
15 requirements that apply to similarly situated occupants of the
16 rights-of-way; and

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

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

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1 E. An authority shall not require an application for the
2 following:

3 1. Routine maintenance;

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

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

11 An authority may, however, require a permit to work within the
12 right-of-way for such activities, if applicable. Any such permits
13 shall not be subject to the requirements provided in subsections C
14 and D of this section.

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

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

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

1 C. An authority shall allow the collocation of small wireless
2 facilities on authority poles subject to the application process in
3 Section 4 of this act and the make-ready process in this section.
4 The rates, fees and terms for such collocations shall be
5 nondiscriminatory regardless of the services provided by the
6 collocating person, comply with this act and be made available to
7 wireless providers under Section 10 of this act.

8 D. The rates, fees and terms and conditions for the make-ready
9 work to collocate on an authority pole described in the application
10 shall be nondiscriminatory, competitively neutral and commercially
11 reasonable and must comply with this act.

12 The authority may perform the make-ready work necessary to
13 enable the pole to support the requested collocation by a wireless
14 provider or require the wireless provider to perform the make-ready
15 work. If the authority elects to perform the make-ready work, it
16 shall provide a good faith estimate for the work, including pole
17 replacement if necessary, within sixty (60) days after receipt of a
18 complete application. The authority shall complete any make-ready
19 work it elects to perform, including any pole replacement within
20 sixty (60) days of written acceptance of the good faith estimate by
21 the applicant. An authority may require replacement of the
22 authority pole only if it demonstrates that the collocation would
23 make the authority pole structurally unsound. If the pole is
24 replaced, the authority shall take ownership of the pole.

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

10 E. A wireless provider shall comply with the following
11 requirements and specifications when collocating on an authority
12 electric distribution pole:

13 1. Requirements and specifications of the National Electrical
14 Safety Code, the National Electrical Code and the Occupational
15 Safety and Health Act, including amendments or revisions to such
16 requirements or specifications, and in the event of conflict, the
17 most stringent of such requirements and specifications; and

18 2. Requirements and specifications of general application
19 adopted by the authority that do not conflict with this act,
20 including requirements and specifications that concern how equipment
21 shall be attached to electric distribution poles so they may be
22 climbed safely.

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

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

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

14 C. Application fees shall be subject to the following
15 requirements:

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

19 2. An application fee may not include:

20 a. travel expenses incurred by a third party in its
21 review of an application, or

22 b. direct payment or reimbursement of third-party rates
23 or fees charged on a contingency basis or a result-
24 based arrangement;

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

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

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

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

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

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

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 36-507 of Title 11, unless there
6 is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

18 A. An authority may adopt an ordinance, resolution or standard
19 agreement that makes available to wireless providers rates, fees and
20 other terms that comply with this act. Subject to subsections B, C,
21 D and E of this section, in the absence of an ordinance, resolution
22 or standard agreement that fully complies with this act and until
23 such a compliant ordinance, resolution or standard agreement is
24 adopted, if at all, wireless providers may install and operate small

1 wireless facilities and utility poles under the requirements of this
2 act.

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

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

22 D. An agreement, ordinance or resolution that applies to small
23 wireless facilities and utility poles that become operational on or
24 after the effective date of this act may not be enforced beginning

1 on the effective date of this act unless it fully complies with this
2 act. If an agreement, ordinance or resolution is invalid in
3 accordance with this subsection, in the absence of an agreement,
4 ordinance or resolution that fully complies with this act and until
5 such a compliant agreement, ordinance or resolution is entered or
6 adopted, small wireless facilities and utility poles may be
7 installed and operated in the right-of-way or become operational
8 under the requirements of this act.

9 E. Notwithstanding the requirements in subsections C and D of
10 this section, a communications service provider that has executed an
11 agreement with an authority relating to small wireless facilities
12 and utility poles prior to the effective date of this act may choose
13 to continue to be subject to the rates, terms and conditions of that
14 agreement for up to five (5) years beyond the effective date of this
15 act.

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

19 A court of competent jurisdiction shall have jurisdiction to
20 determine all disputes arising under this act. Pending resolution
21 of a dispute concerning rates for collocation of small wireless
22 facilities on authority poles and non-authority poles, the person
23 owning or controlling the pole shall allow the collocating person to
24 collocate on its poles at annual rates of no more than Twenty

1 Dollars (\$20.00) with rates to be trued up upon final resolution of
2 the dispute.

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

6 A. An authority may adopt indemnification, insurance and
7 bonding requirements related to small wireless facility permits
8 subject to the requirements of this section.

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

22 C. An authority may require a wireless provider to have in
23 effect insurance coverage naming the authority and its officers,
24 agents, and employees as additional insureds against the claims,

1 demands, damages, lawsuits, judgments, costs, liens, losses,
2 expenses and attorney fees described in subsection A of this
3 section, so long as the authority imposes similar requirements on
4 other rights-of-way users and such requirements are reasonable and
5 nondiscriminatory.

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

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

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

13 a. provide for the removal of abandoned or improperly
14 maintained small wireless facilities, including those
15 that an authority determines need to be removed to
16 protect public health, safety, or welfare,

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

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

24 2. An authority shall not require either of the following under

1 paragraph 1 of this subsection:

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

3 (1) the wireless provider has failed to obtain or maintain
4 a bond required under this section, or

5 (2) the surety has defaulted or failed to perform on a
6 bond given to the authority on behalf of the wireless
7 provider,

8 b. a bond in an amount exceeding One Thousand Dollars
9 (\$1,000.00) per small wireless facility.

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

11 Passed the House of Representatives the 14th day of March, 2018.

12
13 _____
14 Presiding Officer of the House
of Representatives

15 Passed the Senate the ____ day of _____, 2018.

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17 _____
18 Presiding Officer of the Senate

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