

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 740 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/15/07 S3/23/07

A Bill

HOUSE BILL 1636

5 By: Representative Bond  
6  
7

8 **For An Act To Be Entitled**

9 AN ACT TO VEST THE ARKANSAS PUBLIC SERVICE  
10 COMMISSION WITH JURISDICTION OVER POLE ATTACHMENT  
11 AGREEMENTS AND DISPUTES AMONG UTILITIES REGARDING  
12 POLE ATTACHMENTS; AND FOR OTHER PURPOSES.  
13

14 **Subtitle**

15 TO GIVE THE ARKANSAS PUBLIC SERVICE  
16 COMMISSION JURISDICTION OVER POLE  
17 ATTACHMENT AGREEMENTS.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 *SECTION 1. Arkansas Code Title 23, Chapter 4 is amended to add an*  
23 *additional subchapter to read as follows:*

24 23-4-1001. Definitions.

25 As used in this subchapter:

26 (1)(A) "Pole attachment" means the attachment of wires and  
27 related equipment to a pole, duct, or conduit owned or controlled by a public  
28 utility for the provision of:

29 (i) Electric service;

30 (ii) Telecommunication service;

31 (iii) Cable television service;

32 (iv) Internet access service; or

33 (v) Other related information services.  
34

35 (B) "Pole attachment" does not mean multiground neutral



1 connections; and

2 (2)(A) "Public utility" means an electric utility in defined at  
3 § 23-1-101, an electric cooperative as defined in § 23-18-201, or a  
4 telecommunications provider as defined in § 23-17-403(24).

5 (B) "Public utility" does not mean a municipal electric  
6 utility.

7  
8 23-4-1002. Nondiscriminatory access for pole attachments.

9 A public utility shall provide nondiscriminatory access for a pole  
10 attachment to:

11 (1) An electric utility;

12 (2) A telecommunications provider;

13 (3) A cable television service; or

14 (4) A cable Internet access service.

15  
16 23-4-1003. Regulation by commission of rates, terms, and conditions.

17 (a) The Arkansas Public Service Commission shall regulate the rates,  
18 terms, and conditions upon which a public utility shall provide access for a  
19 pole attachment.

20 (b)(1) The commission shall develop rules necessary for the effective  
21 regulation of the rates, terms, and conditions upon which a public utility  
22 shall provide access for a pole attachment.

23 (2) In developing and implementing the rules under this  
24 subsection, the commission shall consider:

25 (A) The interests of the subscribers of the services  
26 offered through pole attachments;

27 (B) The interests of the consumers of the public utility  
28 services;

29 (C) Maintenance of reliability of public utility services;  
30 and

31 (D) Compliance with applicable safety standards.

32 (3) The commission shall adopt the initial rules under this  
33 subsection within one (1) year of the effective date of this act.

34 (c) Nothing in this section prevents a public utility, an electric  
35 utility, a telecommunications provider, a cable television service, or a  
36 cable Internet access service from entering into a voluntarily negotiated,

1 written agreement regarding the rates, terms, and conditions upon which  
2 access for a pole attachment is provided.

3  
4 23-4-1004. Authority of commission to hear complaints.

5 (a) The Arkansas Public Service Commission may hear and determine all  
6 complaints arising from:

7 (1) A public utility's failure or refusal to provide access for  
8 a pole attachment;

9 (2) The inability of a public utility and an entity seeking  
10 access for a pole attachment to reach a voluntarily negotiated, written  
11 agreement governing access for the pole attachment; and

12 (3) Disputes between a public utility and an entity over the  
13 implementation of an existing contract granting the entity access for a pole  
14 attachment.

15 (b) A public utility shall provide information required for the  
16 commission to verify that the costs associated with access for pole  
17 attachments provided by the public utility are just and reasonable.

18 (c)(1) The commission shall resolve any complaint or dispute that the  
19 commission may hear under this section within one hundred eighty (180) days  
20 after the complaint is filed with the commission.

21 (2) However, the commission by rule may extend the time to  
22 resolve a complaint or dispute for up to three hundred sixty (360) days after  
23 the complaint is filed.

24  
25 23-4-1005. Certification.

26 Upon the adoption of rules under § 23-4-1003, the Arkansas Public  
27 Service Commission shall certify to the Federal Communications Commission  
28 that:

29 (1) The Arkansas Public Service Commission regulates the rates,  
30 terms, and conditions of access for pole attachments;

31 (2) In regulating the rates, terms, and conditions of access for  
32 pole attachments, the state considers the interests of the:

33 (A) Subscribers of service offered by the pole  
34 attachments; and

35 (B) Customers of the public utility; and

36 (3) The Arkansas Public Service Commission has adopted rules

1 under this subchapter that:

2 (A) Implement the Arkansas Public Service Commission's  
3 regulatory authority; and

4 (B) Provide that complaints heard by the Arkansas Public  
5 Service Commission under this subchapter shall be resolved:

6 (i) Within one hundred eighty (180) days after the  
7 complaint is filed; or

8 (ii) If the Arkansas Public Service Commission  
9 elects to extend the period, not exceeding three hundred sixty (360) days  
10 after the complaint is filed.

11  
12 23-4-1006. Applicability.

13 Nothing in this subchapter shall affect the authority and jurisdiction  
14 of the Federal Communications Commission over the rates, terms, and  
15 conditions of a pole attachment until after the final certification of the  
16 Arkansas Public Service Commission under § 23-4-1005.

17  
18 /s/ Bond

19  
20 APPROVED: 3/30/2007