

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.

1 State of Arkansas As Engrossed: S3/16/01 S3/21/01 S4/11/01

2 83rd General Assembly

A Bill

3 Regular Session, 2001

SENATE BILL 843

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5 By: Senator K. Smith

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For An Act To Be Entitled

9 AN ACT TO BRIDGE THE DIGITAL DIVIDE IN UNDER-
10 SERVED RURAL AND POOR AREAS OF ARKANSAS BY
11 REQUIRING PUBLIC SCHOOLS TO UTILIZE FREE ACCESS
12 TO BROADBAND SERVICES AND BY REQUIRING FAIR AND
13 REASONABLE POLE ATTACHMENT RATES; AND FOR OTHER
14 PURPOSES.

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Subtitle

17 AN ACT TO BRIDGE THE DIGITAL DIVIDE IN
18 UNDER-SERVED RURAL AND POOR AREAS OF
19 ARKANSAS BY REQUIRING PUBLIC SCHOOLS TO
20 UTILIZE FREE ACCESS TO BROADBAND
21 SERVICES AND BY REQUIRING FAIR AND
22 REASONABLE POLE ATTACHMENT RATES.

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. All public elementary and secondary schools in this state
28 that do not have broadband access and that have available on the effective
29 date of this act broadband access at no cost or obligation to the school
30 shall, within six (6) months after the effective date of this act, implement
31 a program designed to utilize that free broadband access. Nothing in this act
32 precludes public elementary and secondary schools from contracting for
33 broadband services in combination with other services in lieu of any
34 obligation under this section.

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36 SECTION 2. When broadband access becomes available to any public

1 elementary or secondary school in this state after the effective date of this
2 act that do not have broadband access, that school shall, within six (6)
3 months of the date the service becomes available without cost or obligation,
4 implement a program designed to utilize that free broadband access. *Nothing*
5 *in this act precludes public elementary and secondary schools from*
6 *contracting for broadband services in combination with other services in lieu*
7 *of any obligation under this section.*

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9 SECTION 3. Regulation of cooperative and attachments.

10 (a) The General Assembly finds and declares that utilities have
11 dedicated a portion of poles, ducts, conduits, and rights-of-way to
12 communications companies for pole attachments through a course of conduct
13 over many years, and that it is in the public interest for utilities to
14 continue to make available such poles, ducts, conduits, and rights-of-way for
15 pole attachments at the just and reasonable rates, terms, and conditions
16 applied to investor-owned utilities under current law.

17 (b) As used in this section:

18 (1) "Communications company" means any telecommunications
19 company, cable television system, competitive local exchange carrier, or
20 inter-exchange carrier, incumbent local exchange carrier certified by the
21 Public Service Commission or other provider of communication services;

22 (2) "Communications services" include cable service, dark fiber,
23 Internet, and telecommunications;

24 (3) "Usable space" means the space above the minimum grade level
25 that can be used for the attachment of wires, cables, and associated
26 equipment; and

27 (4) "Utility" means any rural electric cooperative, and any
28 other electrical company or telephone company which is cooperatively
29 organized or owned by the state or any political subdivision, agency, or
30 instrumentality thereof.

31 (c)(1) All rates, terms, and conditions for charges for pole
32 attachments shall be just and reasonable.

33 (2) A rate is just and reasonable if it assures a utility the
34 recovery of not less than the additional costs of providing pole attachments
35 nor more than:

36 (A) A one-time reimbursement for reasonable costs actually

1 incurred by the utility for necessary rearrangements and replacements
2 performed at the request of a communications company; and

3 (B) An annual recurring fee for each pole used by an
4 attachment determined by multiplying the percentage of the total usable
5 space, or the percentage of the total duct or conduit capacity, which is
6 occupied by the pole attachment by the annual costs of ownership for the
7 entire pole, duct, conduit, or rights-of-way determined, to the extent
8 practicable, consistent with the methods prescribed by the Federal
9 Communications Commission.

10 (3) The percentage of total usable space on a pole occupied by
11 the pole attachment shall be presumed to be seven and four-tenths percent
12 (7.4%).

13 (d) On request of a communications company or association of
14 communications companies, a utility shall provide, within thirty (30) days,
15 accurate and complete responses to requests for information relevant to the
16 calculation of its pole attachment rates.

17 (e) A utility shall provide a communications company with
18 nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or
19 controlled by it.

20 (f) A communications company that obtains an attachment to a pole,
21 conduit, or right-of-way shall not be required to bear any of the costs of
22 rearranging or replacing its attachment, if the rearrangement or replacement
23 is required as a result of an additional attachment or the modification of an
24 existing attachment sought by any other entity, including the owner of the
25 pole, duct, conduit, or right-of-way.

26 (g) A utility shall provide a communications company no less than
27 sixty (60) days' written notice prior to:

28 (1) Removal of facilities or termination of any service to those
29 facilities, if the removal or termination arises out of a rate, term or
30 condition of the pole attachment agreement; or

31 (2) Any proposed increase in pole attachment rates.

32 (h) Nothing in this section shall be deemed to alter any rights or
33 obligations that exist by virtue of an existing contract.

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35 SECTION 4. All rates, terms, and conditions with respect to pole
36 attachments, ducts, and conduits, unless otherwise mutually agreed to between

1 the parties to an agreement, shall be established to be just, reasonable and
2 non-discriminatory.

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4 SECTION 5. (a) The Public Service Commission shall determine whether
5 a pole attachment rate is just, reasonable, and non-discriminatory.

6 (b) The Public Service Commission shall establish rules and
7 regulations governing the standards and procedures applied in the
8 determination of whether a pole attachment rate is just, reasonable, and non-
9 discriminatory.

10 /s/ K. Smith
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