



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4120

by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-511 new

Amends the Public Utilities Act. Provides that if a municipality, pursuant to an ordinance adopted by the corporate authorities of the municipality, enters into a contract with a provider of wireless Internet services (ISP) for the purpose of providing municipal and public access to a wireless broadband Internet network, then a public utility that owns or co-owns above-ground utility poles, including, but not limited to, street light and traffic poles and pole arms located in the public rights-of-way within the municipality, shall be required to enter into pole access agreements with the ISP to allow access to all above-ground poles of the public utility located in the public right-of-way. Contains provisions concerning the terms and conditions of the pole access agreements. Provides that the Illinois Commerce Commission shall, within 60 days after the effective date of the amendatory Act, adopt rules concerning pole access rates, terms, and conditions and any necessary additional procedures for hearing and resolving contested cases concerning the rates, terms, and conditions. Contains provisions concerning the enforcement of decisions by the Commission regarding contested cases. Effective immediately.

LRB095 12628 MJR 37911 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by adding
5 Section 8-511 as follows:

6 (220 ILCS 5/8-511 new)

7 Sec. 8-511. Pole access agreements; providers of municipal
8 wireless Internet services.

9 (a) It is the policy of this State to encourage and promote
10 access to wireless networks, especially if the networks further
11 the goals of facilitating the provision of municipal and other
12 public services and the promotion of public safety. In
13 furtherance of that policy, it is necessary that access to
14 public utility poles for providers of wireless Internet
15 services to municipalities and their residents be provided at
16 rates that are just and reasonable.

17 (b) If a municipality, pursuant to an ordinance adopted by
18 the corporate authorities of the municipality, enters into a
19 contract with a provider of wireless Internet services (ISP)
20 for the purpose of providing municipal and public access to a
21 wireless broadband Internet network, then any public utility
22 that owns or co-owns above-ground utility poles, including, but
23 not limited to, street light and traffic poles and pole arms

1 located in the public rights-of-way within the municipality, is
2 required to enter into pole access agreements with the ISP to
3 allow access to all above-ground poles of the public utility
4 located in the public right-of-way. The pole access agreements
5 shall:

6 (1) contain rates, terms, and conditions that the
7 Commission determines are just and reasonable; provided,
8 however, that the maximum charge to an ISP by a public
9 utility pursuant to this Section for access to its utility
10 poles shall not exceed \$15 per pole, per year; and

11 (2) be for the purpose of attaching any equipment
12 necessary for the provision of wireless broadband Internet
13 network services within the municipality, including
14 switching, processing, transmission, and distribution
15 equipment.

16 If poles are co-owned by 2 or more public utilities, or a
17 public utility and non-regulated entity, an agreement for
18 access shall only be necessary with the public utility or other
19 entity that is the majority owner. If an ISP and a public
20 utility are unable to reach an agreement on price or other
21 elements of a pole access agreement within 60 days after the
22 effective date of any contract between the ISP and the
23 municipality, then the ISP may, in its discretion, initiate a
24 contested case with the Commission pursuant to Article X of
25 this Act for the purpose of enforcing the pole access required
26 under this Section.

1 (c) The Commission shall, within 60 days after the
2 effective date of this amendatory Act of the 95th General
3 Assembly, adopt rules concerning pole access rates, terms, and
4 conditions for agreements required under this Section and any
5 necessary additional procedures for hearing and resolving
6 contested cases. For purposes of enforcing any determinations
7 resulting from contested cases originating under this Section,
8 the Commission shall take action as it deems appropriate.

9 (d) If the Commission finds that a public utility violated
10 any provision of this Section or any Commission order, then it
11 shall order the utility:

12 (1) to grant access to an ISP; and

13 (2) to cease and desist from violating the provisions
14 of this Section.

15 Orders and agreements may be entered on the Commission's
16 own motion or by agreement between the parties. Orders and
17 agreements shall be valid and enforceable for the stated
18 period, but may not exceed 10 years after the date the order or
19 agreement is approved by the Commission, unless the parties
20 stipulate otherwise. Orders and agreements shall be
21 enforceable in any court of this State having proper venue and
22 jurisdiction. Failure to comply with a Commission cease and
23 desist order or order granting access shall constitute a
24 separate violation of this Act apart from any underlying
25 violations.

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.