



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3834

Introduced 2/25/2009, by Rep. Julie Hamos

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-511 new

Amends the Public Utilities Act. Provides that if a municipality, by ordinance, approves the creation of a wireless network, then any entity within that municipality 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.

LRB096 09356 MJR 19513 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 can
11 improve public services and the promotion of public safety. To
12 that end, it is necessary that access to public utility poles
13 for providers of wireless Internet services be provided at
14 rates that are just and reasonable.

15 (b) If a municipality, by ordinance, approves the creation
16 of a wireless network, then any entity within that municipality
17 that owns or co-owns above-ground utility poles, including, but
18 not limited to, street light and traffic poles and pole arms
19 located in the public rights-of-way within the municipality, is
20 required to enter into pole access agreements with the ISP to
21 allow access to all above-ground poles of the public utility
22 located in the public right-of-way. The pole access agreements
23 shall:

1 (1) contain rates, terms, and conditions that the
2 Commission determines are just and reasonable; provided,
3 however, that the maximum charge to an ISP by a public
4 utility pursuant to this Section for access to its utility
5 poles shall not exceed \$25 per pole, per year; and

6 (2) be for the purpose of attaching any equipment
7 necessary for the provision of wireless broadband Internet
8 network services within the municipality, including
9 switching, processing, transmission, and distribution
10 equipment.

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

22 (c) The Commission shall, within 60 days after the
23 effective date of this amendatory Act of the 96th General
24 Assembly, adopt rules concerning pole access rates, terms, and
25 conditions for agreements required under this Section and any
26 necessary additional procedures for hearing and resolving

1 contested cases. For purposes of enforcing any determinations
2 resulting from contested cases originating under this Section,
3 the Commission shall take action as it deems appropriate.

4 (d) If the Commission finds that a public utility violated
5 any provision of this Section or any Commission order under
6 this Section, then it shall order the utility:

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

8 (2) to cease and desist from violating the provisions
9 of this Section.

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.