

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 364.037, Florida Statutes, is created to read:

364.037 Provision of Broadband Internet Service By Electric Cooperatives

(1) The Legislature finds that there is a need for increased access to broadband Internet service throughout this state, particularly in underserved and unserved areas where citizens do not have access to acceptable Internet download and upload speeds, or any access at all. The lack of Internet connectivity and widespread broadband availability is detrimental to the growth of the economy, access to telehealth, and educational opportunities.

(2) It is the intent of the Legislature to encourage parties to enter into voluntary pole attachment agreements.

(3) For purposes of this section, the term:

(a) "Affiliate", when used in relation to any person or entity, means another person or entity who owns or controls, is owned or controlled, or is under common ownership or control with, such person or entity.

(b) "Broadband Internet service" has the same meaning as provided in s. 288.9961(2)(a).

(c) "Commission" means the Florida Public Service Commission.

(d) "Broadband electric cooperative" means an electric cooperative organized under Chapter 425 that provides, or elects to provide, broadband Internet service to the public either directly, through an affiliate, or in partnership with a third party, or receives funding from any federal or state program to expand broadband Internet service to underserved or unserved areas of this state.

(e) "Non-discriminatory basis" means that:

(i) a broadband electric cooperative may not arbitrarily differentiate among or between similarly situated providers of broadband Internet service; and

(ii) a provider of broadband Internet service, including a broadband electric cooperative, may not arbitrarily differentiate among or between similarly situated underserved or unserved end users within the broadband electric cooperative's electric service territory.

(e) "Safety and engineering standards" include all applicable engineering, reliability, and safety standards governing the installation, maintenance, and operation of facilities and poles and the performance of all work in and around electric utility facilities, and shall include the most current versions of the National Electric Safety Code, the National Electric Code and the regulations of the Occupational Safety and Health Administration, and other reasonable nondiscriminatory safety and engineering requirements, including but not limited to requirements addressing overloading of electric utility facilities.

(f) "Third-party attacher" means an entity providing broadband Internet service who makes proper and complete application with the broadband electric cooperative for wireline attachments to broadband electric cooperative poles.

(g) "Underserved" has the same meaning as provided in s. 288.9961(2)(f).

(h) "Unserved" has the same meaning as provided in s. 288.9961(2)(g).

(i) "Wireline attachment" has the same meaning as provided in s. 288.9963(2)(f).

(4) A broadband electric cooperative is authorized to establish, acquire, and wholly or partially own one or more affiliates that provide broadband Internet service to its membership or others. A broadband electric cooperative may allow its affiliates or an unaffiliated broadband Internet service provider to own, lease, construct, maintain and operate broadband Internet service facilities on the broadband electric cooperative's electric distribution system and other systems.

(5) A broadband electric cooperative is authorized to charge an affiliate or an unaffiliated broadband Internet service provider for the construction, installation, operation, use and maintenance of those parts of its electric delivery system that are used or may be reserved for use by the affiliated or unaffiliated broadband Internet service provider; provided, however, a broadband electric cooperative shall not charge an affiliate under this section an amount less than the broadband electric cooperative charges a similarly situated unaffiliated entity for the same item.

(6) Pole Access.

(a) A broadband electric cooperative shall provide a third-party attacher access to any pole owned or controlled by the broadband electric cooperative on a non-discriminatory basis subject to mutually agreed terms and conditions.

(b) A broadband electric cooperative may deny a third-party attacher access to its poles, on a non-discriminatory basis, where there is insufficient capacity or for reasons related to reliability or failure to comply with applicable safety and engineering standards.

(c) A provider of broadband Internet service who makes application to a broadband electric cooperative for wireline attachments shall make all reasonable efforts to make broadband Internet service available to unserved or underserved end users within the broadband electric cooperative's electric service territory on a non-discriminatory basis.

(7) If a broadband electric cooperative is required to replace a utility pole due to an attachment by a third-party attacher, the broadband electric cooperative may require, as a condition to attach to the pole, that third-party attachers reimburse all reasonable and nondiscriminatory costs attributable solely to the new attachment minus the salvage value of the removed pole, if positive. A broadband electric cooperative may not require a utility pole to be replaced to accommodate a third-party attacher except where necessary to comply with applicable safety and engineering standards. All wireline attachments must comply with safety and engineering standards.

(8) Nothing in this section shall be construed to impede or impair terms and conditions of existing contracts.

(9) The Commission shall have the authority to hear and resolve complaints arising from this section. Pole attachment agreements, leases and other agreements that a broadband electric cooperative has with an affiliated or unaffiliated broadband Internet service provider shall be proprietary confidential business information as defined in s. 364.183(3). Access to the records of a broadband electric cooperative, its affiliates, or an unaffiliated broadband Internet service provider in any docket or proceeding under this section shall be afforded the same protections provided telecommunications companies under s. 364.183.

Section 2. This act shall take effect July 1, 2023.