

REFERENCE TITLE: local governments; smallcell equipment permitting

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1214

Introduced by
Senator Fann

AN ACT

AMENDING SECTIONS 9-506, 9-582 AND 9-584, ARIZONA REVISED STATUTES;
RELATING TO PUBLIC UTILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-506, Arizona Revised Statutes, is amended to
3 read:

4 9-506. Authority to issue license; limitations; permits for
5 wi-fi radio equipment; definitions

6 A. For the purpose of authorizing and regulating the construction,
7 operation and maintenance of cable television systems, the licensing
8 authority of a city, including a charter city, or town for an incorporated
9 area, or the licensing authority of the county for unincorporated areas,
10 either individually or jointly by intergovernmental contract, may issue a
11 license to any person to use public streets, roads and alleys and shall
12 impose conditions, restrictions and limitations on the use of public
13 streets, roads and alleys and on the construction, operation and
14 maintenance of cable television systems.

15 B. Subject to the limitations of this section, a licensing
16 authority may adopt resolutions or ordinances implementing and controlling
17 the license or joint license, issue a license containing other terms and
18 conditions and impose a license fee on gross revenues. In addition to the
19 limitations of this section, the license is subject to the limits
20 established by the communications act of 1934, as amended (47 United
21 States Code sections 151 through 615b) and the federal communications
22 commission.

23 C. Other than the license fee on gross revenues authorized by this
24 article and transaction privilege taxes as provided in this subsection, a
25 licensing authority may not levy a tax, rent, fee or charge, however
26 denominated, on a cable operator for the use of the public streets, roads
27 or alleys to provide cable service or levy a tax, fee or charge on the
28 privilege of engaging in the business of providing cable service in the
29 area of jurisdiction. Taxes, rents, fees and charges include all:

30 1. Access channel support except for in-kind services or payments
31 as provided in subsection D of this section.

32 2. Rental, application, construction, permit, inspection,
33 inconvenience and other fees and charges related to a cable operator's use
34 of the public streets, roads and alleys, including the use authorized by
35 subsection I of this section. This subsection does not prohibit a
36 licensing authority from levying fees and charges for microcell equipment
37 **AND SMALLCELL EQUIPMENT** on a cable operator **OR ITS AFFILIATES** pursuant to
38 section 9-584 without an offset for license fees. In addition, the
39 following apply:

40 (a) Any transaction privilege taxes otherwise authorized by law to
41 be levied on the business of providing cable service or in relation to use
42 of the public streets, roads or alleys to provide cable service may be
43 levied on a cable operator if the taxes are levied only on gross revenues
44 and the rate of the taxes is subject to ~~paragraph 3~~ **SUBDIVISION (c)** of
45 this ~~subsection~~ **PARAGRAPH**. This subsection does not authorize the

1 imposition of transaction privilege taxes on interstate telecommunications
2 services.

3 (b) The license fee and any transaction privilege taxes levied on
4 gross revenues constitute a franchise fee within the meaning of 47 United
5 States Code section 542(g)(1).

6 (c) Under no circumstances may the total of the rates of the
7 license fee and of any transaction privilege taxes on gross revenues
8 levied or assessed by a licensing authority for the privilege of providing
9 cable service and related use of the public streets, roads or alleys to
10 provide cable service exceed a rate of five percent, except during the
11 transition period for certain licenses as provided in subsection H of this
12 section.

13 (d) A cable operator shall pass on to subscribers any reduction in
14 the amount of fees, taxes or other charges paid by a cable operator and
15 itemized to subscribers that results from the implementation of the
16 amendment to this section effective on September 21, 2006.

17 D. A licensing authority may not require a cable operator to
18 provide in-kind services, make in-kind payments or pay a fee in addition
19 to the monetary license fee levied or assessed as provided in this section
20 as part of or as a condition of issuing a license to provide cable
21 service, except that:

22 1. A licensing authority may require a cable operator to provide
23 channel capacity to transmit programming over which the cable operator
24 exercises no editorial control except as authorized by 47 United States
25 Code section 531(e). The channel capacity shall be limited to not more
26 than two channels of public, educational or governmental access
27 programming in the basic service tier of the cable television system and
28 not more than two channels of noncommercial governmental programming, at
29 least one of which may be programmed by the federal government, in the
30 digital programming tier of the cable television system. If channel
31 capacity is required, the programming shall be specified in the license
32 and the cable operator may require that the channels regularly display an
33 unobtrusive logo or other suitable identifier of the cable operator as set
34 forth in the license.

35 2. A licensing authority may require a cable operator to incur
36 costs and expenses to provide, maintain and operate facilities and
37 equipment of the cable television system, including facilities and
38 equipment for signal carriage, processing, reformatting and
39 interconnection:

40 (a) To connect the cable television system, as it may be relocated
41 from time to time, to transmit programming to and from existing locations
42 of public, educational or governmental access facilities and to allow
43 monitoring of access programming at the facilities.

1 (b) To transmit public, educational and governmental access
2 channels to subscribers with the same prevailing quality, functionality
3 and identification as other channels.

4 3. A licensing authority may require a cable operator to provide
5 the basic service tier of cable service at no monthly service charge to
6 offices and facilities of the licensing authority.

7 4. The value of any channel capacity provided pursuant to paragraph
8 1 of this subsection, the costs and expenses incurred pursuant to
9 paragraph 2 of this subsection and the value of basic service provided
10 pursuant to paragraph 3 of this subsection may not be offset against the
11 license fee levied or assessed under this section.

12 E. This section does not prohibit a cable operator from agreeing to
13 provide in-kind services or make in-kind payments in the area of
14 jurisdiction that are prohibited by subsection D of this section if the
15 agreement with the licensing authority is not part of, or entered into as
16 a condition of being issued, a new, renewed or amended license to provide
17 cable service. An agreement that requires in-kind cable service or
18 payments shall set forth the total annual fair market value of the in-kind
19 cable service and payments, which shall be less than or equal to and
20 offset against the license fee levied or assessed annually pursuant to
21 this section. The license shall authorize the cable operator to retain
22 license fees and taxes collected from its subscribers in the amount of
23 this offset. In-kind cable services and payments include any channel
24 capacity and all capital costs and charges for or in support of the use of
25 any channel capacity that the cable operator agrees to provide under this
26 subsection.

27 F. Notwithstanding subsection C of this section, a licensing
28 authority may require that a cable operator:

29 1. Bear reasonable costs that are associated with damage caused to
30 public streets, roads and alleys by construction, maintenance and
31 operation of its facilities in the public streets, roads and alleys and
32 that are imposed on a competitively neutral and nondiscriminatory basis in
33 relation to costs borne by telecommunications corporations under section
34 9-582, subsection C.

35 2. Pay fines, fees, charges or damages for breach of the terms and
36 conditions of the license.

37 G. This section does not affect the authority of a licensing
38 authority to manage the public streets, roads and alleys within its
39 boundaries or to exercise its police powers.

40 H. A license that is in effect on September 21, 2006, including one
41 that is later renewed or extended for a term that begins before July 1,
42 2007, is enforceable in accordance with its terms and conditions as of
43 July 1, 2007 and is not subject to the provisions of the amendment to this
44 section effective on September 21, 2006. If a license that is in effect
45 on September 21, 2006 is later extended or renewed for a term that begins

1 after June 30, 2007, the extended or renewed license is subject to the
2 provisions of the amendment to this section effective on September 21,
3 2006 and the amendment to this section, effective on September 19, 2007,
4 effective on the first day of the renewal or extension term, unless the
5 term begins before January 1, 2008, in which case the limitation in
6 subsection C, paragraph ~~3~~ 2, SUBDIVISION (c) of this section on the rates
7 of the license fee and of any transaction privilege taxes on gross
8 revenues is:

9 1. Five percent, if the gross effective rate is five percent or
10 less.

11 2. If the gross effective rate is more than five percent,
12 five percent plus the following percentage:

13 (a) In the first year of the extension or renewal term, the gross
14 effective rate minus five percent, multiplied by two-thirds.

15 (b) In the second year of the term, the gross effective rate minus
16 five percent, multiplied by one-third.

17 (c) In the third year of the term, and thereafter, zero percent.

18 I. On application a licensing authority shall issue to a cable
19 operator OR ITS AFFILIATE a permit to attach allowed Wi-Fi radio equipment
20 to the cable television system in public streets, roads and alleys in the
21 area of jurisdiction. The permits shall allow installation, operation and
22 maintenance of the allowed Wi-Fi radio equipment. A licensing authority
23 may require that all of the allowed Wi-Fi radio equipment at a single
24 location fit within a fifteen-inch cube and be contained entirely within a
25 ground-mounted pedestal otherwise allowed by the license or be connected
26 directly to and mounted at the same height as one of the cable operator's
27 aerial horizontal conductors otherwise allowed by the license.

28 J. Subsection I of this section does not:

29 1. Affect any authority of a political subdivision, including an
30 agricultural improvement district or any other special taxing district,
31 the licensing authority or any other person controlling utility poles in
32 the public streets, roads and alleys to deny, limit, restrict or determine
33 the terms and conditions for the use of or attachment to the utility poles
34 or attachments to other poles of the political subdivision, licensing
35 authority or other person by a cable operator.

36 2. Prohibit a licensing authority from imposing competitively
37 neutral and nondiscriminatory requirements for a cable operator to
38 underground aerial facilities to which allowed Wi-Fi equipment is
39 attached.

40 3. Prohibit the imposition of a tax, rent, fee or charge on revenue
41 from services provided through allowed Wi-Fi radio equipment.

42 4. Affect the authority of a licensing authority to manage the
43 public streets, roads and alley within its boundaries or to exercise its
44 police powers including review and approval of an application before
45 issuing a permit.

1 K. For the purposes of this section:

2 1. "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH
3 ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON
4 CONTROL WITH THE CABLE OPERATOR.

5 ~~1.~~ 2. "Allowed Wi-Fi radio equipment" means radio equipment that
6 uses only unlicensed radio spectrum and that enables wireless
7 communication with a communications network for unlicensed services such
8 as Wi-Fi service.

9 ~~2.~~ 3. "Gross effective rate" means one hundred percent multiplied
10 by the fraction in which the numerator is the sum of all taxes, fees and
11 charges of the licensing authority that the cable operator itemized to
12 subscribers and paid to the licensing authority under the license for the
13 twelve calendar months immediately preceding September 21, 2006 and the
14 denominator is the cable operator's gross revenues for that period in the
15 area of jurisdiction.

16 Sec. 2. Section 9-582, Arizona Revised Statutes, is amended to
17 read:

18 9-582. Taxes and other charges; telecommunications
19 facilities; limitations

20 A. A political subdivision shall not levy a tax, rent, fee or
21 charge on a telecommunications corporation, including a telecommunications
22 corporation that provides interstate services as described in section
23 9-583, subsection C, for the use of a public highway to provide
24 telecommunications services, or levy a tax, fee or charge ~~upon~~ ON the
25 privilege of engaging in the business of providing telecommunications
26 services within that political subdivision other than:

27 1. Any transaction privilege tax authorized by law on the business
28 of providing telecommunications services, except that this section does
29 not allow the imposition of a transaction privilege tax on the business of
30 providing interstate telecommunications services. Any transaction
31 privilege tax authorized by law on the business of providing commercial
32 mobile radio service shall not exceed the tax rate levied on the business
33 of providing telecommunications services.

34 2. A telecommunications application fee for the issuance of a
35 telecommunications license or franchise if the application fee applies on
36 a competitively neutral and nondiscriminatory basis to all
37 telecommunications corporations that use the public highways to provide
38 telecommunications services. A political subdivision may require only one
39 application fee and one license or franchise for each telecommunications
40 corporation whether the telecommunications corporation provides local
41 services only or local and long-distance services, including intrastate or
42 interstate services. An application fee is not required for a
43 telecommunications corporation described in subsection E of this section.

44 3. A telecommunications construction permit fee for the issuance of
45 a construction permit to place telecommunications facilities in the public

1 highways if the permit fee applies on a competitively neutral and
2 nondiscriminatory basis to all telecommunications corporations that place
3 telecommunications facilities in the political subdivision's public
4 highways to provide telecommunications services. Political subdivisions
5 shall establish a nonbinding outside arbitration procedure to attempt to
6 resolve disputes over recovery of reasonable, proportionate and
7 attributable costs of construction permit fees pursuant to this paragraph
8 and other fees pursuant to this article before the disputes are submitted
9 to a court for resolution.

10 4. A fee under section 9-583, subsection C.

11 B. All application fees, permit fees and charges levied by a
12 political subdivision on telecommunications corporations pursuant to
13 subsection A, paragraphs 2 and 3 of this section shall be levied on a
14 competitively neutral and nondiscriminatory basis and directly related to
15 the costs incurred by the political subdivision in providing services
16 relating to the granting or administration of applications or
17 permits. These fees and charges also shall be reasonably related in time
18 to the occurrence of the costs.

19 C. Notwithstanding subsections A and B of this section, a political
20 subdivision may require a telecommunications corporation to bear all of
21 the reasonable costs associated with construction, maintenance and
22 operation of its facilities in the public highway used to provide
23 telecommunications services, including bearing reasonable costs associated
24 with damage caused to public highways.

25 D. Notwithstanding subsections A and B of this section, in a
26 license or franchise, a political subdivision and a telecommunications
27 corporation may agree to in-kind payments for use of the public highways
28 different from those specified in subsection A or B of this section. The
29 license or franchise shall be structured so that the in-kind payments made
30 for use of the public highways to provide interstate telecommunications
31 services under the license or franchise are less than or equal to and are
32 offset against any linear foot charge owed pursuant to section 9-583,
33 subsection C, paragraphs 2 and 3. The license or franchise shall be
34 structured so that the in-kind payments made under the license or
35 franchise pursuant to subsection A, paragraph 1 of this section are less
36 than or equal to and are offset against any transaction privilege license
37 tax on the business of providing telecommunications services. The
38 valuation of any in-kind benefits shall be set forth in such
39 agreements. The in-kind facilities that are used to offset any or all
40 payments in this subsection are limited to the costs of the in-kind
41 facilities and shall remain in possession and ownership of the political
42 subdivision after the term of the existing license or franchise expires.
43 In-kind facilities may be offset for either payments of intrastate
44 transaction privilege taxes or for interstate linear foot charges but
45 shall not be offset for any combination of intrastate and interstate

1 charges. However, a political subdivision shall not require a
2 telecommunications corporation to provide in-kind services, make in-kind
3 payments or pay a fee in addition to the fees described in subsections A
4 through C of this section as a condition of consent to use a highway to
5 provide telecommunications services.

6 E. Notwithstanding subsection D of this section, any
7 telecommunications corporation that was providing telecommunications
8 service within this state on November 1, 1997 pursuant to a grant made to
9 it or its lawful predecessors ~~prior to~~ BEFORE the effective date of the
10 Arizona Constitution may continue to provide telecommunications service
11 pursuant to that state grant until it is lawfully repealed, revoked or
12 amended. Such telecommunications corporation shall require no additional
13 grant from any political subdivision to provide telecommunications
14 services.

15 F. ~~Nothing in~~ This article ~~shall be deemed to~~ DOES NOT affect the
16 terms or conditions of any franchise, license or permit issued by a
17 political subdivision ~~prior to~~ BEFORE November 1, 1997, or to release any
18 party from its obligations thereunder. Those franchises, licenses or
19 permits shall remain fully enforceable in accordance with their terms. A
20 political subdivision may lawfully enter into agreements with franchise
21 holders, licensees or permittees to modify or terminate an existing
22 franchise, license or agreement.

23 G. A political subdivision may not discriminate against a cable
24 operator in ~~its provision of telecommunications services~~ OR PREVENT A
25 CABLE OPERATOR FROM USING ITS CABLE SYSTEM IN THE PUBLIC HIGHWAYS TO
26 PROVIDE TELECOMMUNICATIONS SERVICES AND OTHER NONCABLE SERVICES if ~~that~~
27 THE cable operator complies with APPLICABLE FEDERAL AND STATE
28 requirements. ~~applicable to telecommunications corporations. Nothing in~~
29 This subsection ~~limits~~ DOES NOT DO ANY OF THE FOLLOWING:

30 1. LIMIT the authority of any political subdivision to license
31 cable systems and to establish conditions on those licenses THAT ARE
32 COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY WITH CONDITIONS APPLICABLE TO
33 TELECOMMUNICATIONS CORPORATIONS AND THAT ARE consistent with federal AND
34 STATE law.

35 2. AFFECT THE AUTHORITY OF A POLITICAL SUBDIVISION TO MANAGE THE
36 PUBLIC HIGHWAYS WITHIN ITS BOUNDARIES OR EXERCISE ITS POLICE POWERS.

37 Sec. 3. Section 9-584, Arizona Revised Statutes, is amended to
38 read:

39 9-584. Microcell and smallcell equipment in public highways;
40 permits; fees; limitations; definitions

41 A. A political subdivision shall allow the following persons AND
42 THEIR AFFILIATES to install, operate and maintain microcell equipment AND
43 SMALLCELL EQUIPMENT in the public highways within the political
44 subdivision:

1 1. A telecommunications corporation within the licensed area of a
2 license issued by the political subdivision under this article.

3 2. A telecommunications corporation described in section 9-582,
4 subsection E.

5 3. A cable operator in the area of jurisdiction licensed by the
6 political subdivision under section 9-506.

7 B. On application a political subdivision shall issue permits for
8 the installation, operation and maintenance of microcell equipment **AND**
9 **SMALLCELL EQUIPMENT** in the public highways within the political
10 subdivision on a competitively neutral and nondiscriminatory basis to all
11 persons specified in subsection A of this section. **ONLY A QUALIFIED**
12 **SERVICE PROVIDER MAY USE MICROCELL EQUIPMENT AND SMALLCELL EQUIPMENT TO**
13 **PROVIDE COMMERCIAL MOBILE RADIO SERVICE.**

14 C. All application fees, permit fees and charges levied by a
15 political subdivision for applications or permits shall be levied on a
16 competitively neutral and nondiscriminatory basis and directly related to
17 the costs incurred by the political subdivision in providing services
18 relating to the granting or administration of applications or
19 permits. These fees and charges also shall be reasonably related in time
20 to the occurrence of the costs.

21 D. A political subdivision may not charge a recurring fee, rent or
22 other charge for use of aerial strand-mounted microcell equipment in
23 public highways within the political subdivision if the political
24 subdivision levies a rent, fee or charge on a person identified in
25 subsection A of this section for the use of the public highways to provide
26 a service. This subsection does not prohibit a political subdivision from
27 charging a competitively neutral and nondiscriminatory rent, fee or charge
28 for the use of **ANY OF THE FOLLOWING:**

29 1. Utility poles or other poles of the political subdivision. ~~Only~~
30 ~~a qualified service provider may use microcell equipment to provide~~
31 ~~commercial mobile services.~~

32 2. **PUBLIC HIGHWAYS THAT ARE OCCUPIED BY SMALLCELL EQUIPMENT.**

33 3. **SUPPORT STRUCTURES AND UTILITY POLES THAT ARE OWNED BY THE**
34 **POLITICAL SUBDIVISION FOR SMALLCELL EQUIPMENT.**

35 E. Except as the political subdivision agrees in the political
36 subdivision's sole discretion, at each site microcell equipment is limited
37 to:

38 1. Not more than two strand-mounted ~~antennae~~ **ANTENNAS** and radio
39 pairs that are owned by a person specified in subsection A of this section
40 or a qualified service provider and that are used to provide commercial
41 **RADIO** mobile service.

42 2. Related devices that are owned by a person specified in
43 subsection A of this section and that are mounted on strand between
44 utility poles, including power supplies, housings, cables and similar
45 supporting furnishings and improvements.

1 F. EXCEPT AS THE POLITICAL SUBDIVISION AGREES IN THE POLITICAL
2 SUBDIVISION'S SOLE DISCRETION, THE FOLLOWING LIMITATIONS APPLY:

3 1. AT EACH SUPPORT STRUCTURE OR UTILITY POLE SMALLCELL EQUIPMENT IS
4 LIMITED TO:

5 (a) ANTENNAS AND RADIO PAIRS THAT ARE OWNED BY A PERSON SPECIFIED
6 IN SUBSECTION A OF THIS SECTION OR A QUALIFIED SERVICE PROVIDER, THAT ARE
7 USED TO PROVIDE COMMERCIAL RADIO MOBILE SERVICE AND THAT OCCUPY NOT MORE
8 THAN THREE CUBIC FEET IN VOLUME FOR A SINGLE ANTENNA AND NOT MORE THAN SIX
9 CUBIC FEET IN VOLUME FOR ALL ANTENNAS ON A SINGLE SUPPORT STRUCTURE OR
10 UTILITY POLE OR A LARGER LIMIT THAT THE FEDERAL COMMUNICATIONS COMMISSION
11 HAS EXCLUDED FROM REVIEW UNDER SECTION 106 OF THE NATIONAL HISTORIC
12 PRESERVATION ACT (P.L. 89-665; 80 STAT. 915), AS AMENDED.

13 (b) EQUIPMENT ENCLOSURES THAT ARE NOT LARGER THAN TWENTY-ONE CUBIC
14 FEET IN VOLUME OR A LARGER LIMIT THAT THE FEDERAL COMMUNICATIONS
15 COMMISSION HAS EXCLUDED FROM REVIEW UNDER SECTION 106 OR THE NATIONAL
16 HISTORIC PRESERVATION ACT (P.L. 89-665; 80 STAT. 915), AS AMENDED.
17 ACCESSORY EQUIPMENT IS NOT INCLUDED IN THE CALCULATION OF THE EQUIPMENT
18 ENCLOSURE VOLUME AND MAY BE LOCATED OUTSIDE OF THE EQUIPMENT ENCLOSURE.

19 2. THE INCREASED OR RESULTING HEIGHT OF THE SUPPORT STRUCTURE ON
20 WHICH THE SMALLCELL EQUIPMENT IS PLACED MAY NOT BE MORE THAN TEN FEET
21 HIGHER THAN THE SUPPORT STRUCTURE WAS BEFORE THE PLACEMENT OF THE
22 SMALLCELL EQUIPMENT OR MORE THAN FIFTY FEET IN OVERALL HEIGHT, WHICHEVER
23 IS GREATER.

24 3. IF THE SMALLCELL EQUIPMENT IS PLACED ON A NEW UTILITY POLE, THE
25 NEW UTILITY POLE MAY NOT BE MORE THAN TEN FEET HIGHER THAN THE EXISTING
26 UTILITY POLES THAT ARE ADJACENT TO THE NEW UTILITY POLE OR MORE THAN FIFTY
27 FEET IN OVERALL HEIGHT, WHICHEVER IS GREATER.

28 4. THE PARTS OF A REMOTE ANTENNA NODE OF A DISTRIBUTED ANTENNA
29 SYSTEM THAT ARE ATTACHED TO A SUPPORT STRUCTURE OR UTILITY POLE SHALL MEET
30 THE SIZE LIMITATIONS PRESCRIBED BY PARAGRAPH 1, SUBDIVISION (a) OF THIS
31 SUBSECTION.

32 G. ONLY A SUPPORT STRUCTURE THAT INDIVIDUALLY QUALIFIES FOR
33 SMALLCELL INSTALLATION IS ENTITLED TO THE APPLICATION AND PERMITTING
34 STANDARDS THAT APPLY TO SMALLCELL EQUIPMENT UNDER THIS SECTION.

35 ~~F.~~ H. This section does not:

36 1. Affect any authority of a political subdivision, an agricultural
37 improvement district or any other special taxing district, or any other
38 person controlling utility poles in the public highways to deny, limit,
39 restrict or determine the terms and conditions for use of or attachment to
40 the utility poles or attachments to other poles of the political
41 subdivision, district or other person by a person specified in subsection
42 A of this section.

43 2. Prohibit a political subdivision from imposing competitively
44 neutral and nondiscriminatory requirements for a person identified in

1 subsection A of this section to underground aerial facilities to which
2 microcell equipment is attached.

3 3. Prohibit a political subdivision from imposing a tax, rent, fee
4 or charge on revenue from services provided through microcell equipment.

5 4. Affect the authority of a political subdivision to manage the
6 public highways within the political subdivision's boundaries or to
7 exercise the political subdivision's police powers, including review and
8 approval of an application before issuing a permit.

9 5. AFFECT THE APPLICATION OF FEDERAL LAW ON PROCESSING
10 APPLICATIONS, ISSUING PERMITS AND LEVYING CHARGES FOR THE CONSTRUCTION,
11 MANAGEMENT, INSTALLATION, OPERATION, MAINTENANCE AND CONTROL OF MICROCELL
12 EQUIPMENT AND SMALLCELL EQUIPMENT IN THE PUBLIC HIGHWAYS.

13 ~~6.~~ I. For the purposes of this section:

14 1. "ACCESSORY EQUIPMENT" MEANS EQUIPMENT THAT IS USED WITH A
15 SUPPORT STRUCTURE, INCLUDING UTILITY, FIBER MANAGEMENT OR TRANSMISSION
16 EQUIPMENT, POWER STORAGE, GENERATION OR CONTROL EQUIPMENT, CABLES, WIRING,
17 EQUIPMENT BUILDINGS, CABINETS AND SHELTERS, AND RELATED AIR CONDITIONING
18 OR COOLING EQUIPMENT.

19 2. "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH
20 ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON
21 CONTROL WITH A PERSON SPECIFIED IN SUBSECTION A OF THIS SECTION.

22 3. "DISTRIBUTED ANTENNA SYSTEM":

23 (a) MEANS A SYSTEM THAT DISTRIBUTES RADIO FREQUENCY SIGNALS TO
24 PROVIDE COMMERCIAL MOBILE RADIO SERVICE AND CONSISTS OF THE FOLLOWING:

25 (i) REMOTE ANTENNA NODES DEPLOYED THROUGHOUT A DESIRED COVERAGE
26 AREA.

27 (ii) HIGH-CAPACITY CONNECTIONS FROM REMOTE ANTENNA NODES ON A
28 SUPPORT STRUCTURE TO A CENTRAL HUB SITE.

29 (iii) EQUIPMENT AT THE HUB SITE THAT PROCESSES OR CONTROLS THE
30 RADIO FREQUENCY SIGNALS THROUGH THE REMOTE ANTENNAS.

31 (b) INCLUDES EQUIPMENT OF A DISTRIBUTED ANTENNA SYSTEM THAT IS
32 OWNED BY PERSON SPECIFIED IN SUBSECTION A OF THIS SECTION OR A QUALIFIED
33 SERVICE PROVIDER.

34 ~~1.~~ 4. "Microcell equipment" means devices that are connected to
35 the aerial facilities of a person specified in subsection A of this
36 section and that are used solely for transmitting, processing and
37 receiving voice and data wireless telecommunications services. Microcell
38 equipment does not include any ground-based equipment.

39 ~~2.~~ 5. Political subdivision does not include an agricultural
40 improvement district or other special taxing district that controls
41 utility poles or an irrigation district.

42 ~~3.~~ 6. "Qualified service provider" means a person that has all
43 applicable authorizations required to provide commercial RADIO mobile
44 service using microcell equipment AND SMALLCELL EQUIPMENT.

1 7. "SMALLCELL EQUIPMENT" MEANS DEVICES THAT ARE CONNECTED TO A
2 SUPPORT STRUCTURE BY A PERSON SPECIFIED IN SUBSECTION A OF THIS SECTION
3 AND THAT ARE USED SOLELY FOR TRANSMITTING, PROCESSING AND RECEIVING
4 COMMERCIAL MOBILE RADIO SERVICE. SMALLCELL EQUIPMENT INCLUDES THE
5 EQUIPMENT IN A DISTRIBUTED ANTENNA SYSTEM.

6 8. "SUPPORT STRUCTURE" MEANS A FREESTANDING MONOPOLE, TOWER OR
7 OTHER EXISTING OR PROPOSED STRUCTURE DESIGNED TO SUPPORT OR CAPABLE OF
8 SUPPORTING SMALLCELL EQUIPMENT. SUPPORT STRUCTURE DOES NOT INCLUDE A
9 UTILITY POLE.

10 ~~4.~~ 9. "Utility pole" means a pole or similar structure and
11 attached appurtenances including strand that is designed for
12 telecommunications, cable, data or electric functions.

13 Sec. 4. Legislative findings

14 Wireless services bring important daily benefits to the residents of
15 this state, including sending and receiving constitutionally protected
16 speech and other communications. Varying access to the public highways,
17 streets, roads and alleys across multiple subdivisions of this state can
18 impede the use of these services by, and their delivery to, the residents
19 of this state. Therefore, the legislature finds, determines and declares
20 that this act is necessary as a matter of statewide concern to ensure that
21 cities, towns and counties, including charter cities, compatibly and
22 effectively authorize, administer and manage the use of the public
23 highways, streets, roads and alleys for the provision of certain licensed
24 and unlicensed wireless communication services. It is the public policy of
25 this state that this act be enforced to the fullest extent permitted by
26 federal law.

27 Sec. 5. Applicability

28 A. Section 9-506, subsection I, Arizona Revised Statutes, as
29 amended by this act, allowing an affiliate of a licensed cable operator to
30 attach to the cable television system and operate and maintain allowed
31 WI-FI radio equipment in public streets, roads and alleys, applies to all
32 cable television licenses issued before the effective date of this act.

33 B. Sections 9-582 and 9-584, Arizona Revised Statutes, as amended
34 by this act, allowing certain persons to install, operate and maintain
35 microcell and smallcell equipment in the public highways within a
36 political subdivision, apply to all persons specified in this act and
37 their affiliates, including those with telecommunications or cable
38 television licenses or other authorizations that took effect or were
39 issued before the effective date of this act, except that any agreement by
40 a person specified in this act or its affiliate to install, operate and
41 maintain smallcell equipment in the public highways within a political
42 subdivision that was entered into on or before December 31, 2016 is not
43 subject to the amendment of section 9-584, Arizona Revised Statutes and
44 remains enforceable in accordance with the agreement's terms and
45 conditions.