

1-1 By: Anderson, et al. (Senate Sponsor - Perry) H.B. No. 3853
 1-2 (In the Senate - Received from the House April 27, 2021;
 1-3 May 13, 2021, read first time and referred to Committee on
 1-4 Transportation; May 20, 2021, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 May 20, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Nichols	X		
1-10	Seliger	X		
1-11	Alvarado	X		
1-12	Blanco	X		
1-13	Hancock	X		
1-14	Hinojosa	X		
1-15	Kolkhorst	X		
1-16	Perry	X		
1-17	West	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3853 By: Perry

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to middle mile broadband service provided by an electric
 1-22 utility.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 43, Utilities Code, is amended to read as
 1-25 follows:

1-26 CHAPTER 43. PROVISION [USE] OF MIDDLE MILE [~~ELECTRIC DELIVERY~~
 1-27 ~~SYSTEM FOR ACCESS TO~~] BROADBAND SERVICE BY ELECTRIC UTILITIES [AND
 1-28 ~~OTHER ENHANCED SERVICES, INCLUDING COMMUNICATIONS~~]

1-29 SUBCHAPTER A. GENERAL PROVISIONS

1-30 Sec. 43.001. LEGISLATIVE FINDINGS. (a) The legislature
 1-31 finds that access to quality, high-speed broadband Internet service
 1-32 is important to this state, is a necessary prerequisite for
 1-33 enabling economic development and improving education, health
 1-34 care, public safety, and government services in this state, and
 1-35 provides other benefits to its citizens [broadband over power
 1-36 lines, also known as BPL, is an emerging technology platform that
 1-37 offers a means of providing broadband services to reach homes and
 1-38 businesses. BPL services can also be used to enhance existing
 1-39 electric delivery systems, which can result in improved service and
 1-40 reliability for electric customers].

1-41 (b) [The legislature finds that access to quality, high
 1-42 speed broadband services is important to this state. BPL
 1-43 deployment in Texas has the potential to extend broadband service
 1-44 to customers where broadband access is currently not available and
 1-45 may provide an additional option for existing broadband consumers
 1-46 in Texas, resulting in a more competitive market for broadband
 1-47 services.] The legislature [further] finds that broadband [BPL]
 1-48 development in unserved and underserved areas of Texas can be
 1-49 facilitated by [is fully dependent upon] the participation of
 1-50 electric utilities in this state that own and operate [power lines
 1-51 and related] facilities that may be useful [are necessary] for the
 1-52 full deployment of broadband service by Internet service providers
 1-53 throughout this state [construction of BPL systems and the
 1-54 provision of BPL services].

1-55 (c) The legislature finds that electric utilities have
 1-56 existing infrastructure in place throughout this state and that
 1-57 excess fiber capacity on that infrastructure could be used to
 1-58 provide middle mile broadband service in unserved and underserved
 1-59 areas.

1-60 (d) The [(c) Consistent with the goal of increasing options

2-1 ~~for telecommunications in this state, the] legislature finds that~~
2-2 it is in the public interest to encourage the deployment of
2-3 broadband service in unserved and underserved areas [BPL] by
2-4 permitting electric utilities to own, construct, or operate fiber
2-5 facilities for the support of electric service and to lease excess
2-6 fiber capacity for the provision of middle mile broadband service
2-7 ~~[affiliates of the electric utility, or permitting unaffiliated~~
2-8 ~~entities, to own or operate all or a portion of such BPL systems].~~
2-9 The purpose of this chapter is to provide the appropriate framework
2-10 to facilitate the leasing of excess fiber capacity on electric
2-11 utility facilities [support the deployment of BPL].

2-12 (e) ~~[(d)]~~ The legislature finds that an electric utility
2-13 may choose to implement middle mile broadband service to lease
2-14 excess fiber capacity to Internet service providers [BPL] under the
2-15 procedures set forth in this chapter, but is not required to do so.
2-16 The electric utility shall have the right to decide, in its sole
2-17 discretion, whether to implement middle mile broadband service
2-18 [BPL] and may not be penalized for deciding to implement or not to
2-19 implement that service [BPL].

2-20 Sec. 43.002. APPLICABILITY. (a) This chapter applies to an
2-21 electric utility whether or not the electric utility is offering
2-22 customer choice under Chapter 39.

2-23 (b) If there is a conflict between the specific provisions
2-24 of this chapter and any other provisions of this title, the
2-25 provisions of this chapter control.

2-26 (c) Except as otherwise provided by this title, no [No]
2-27 provision of this title imposes [shall impose] an obligation on an
2-28 electric utility to construct or operate facilities to [implement
2-29 BPL, to] provide middle mile broadband service [services], or to
2-30 allow others to install [BPL] facilities or use the electric
2-31 utility's facilities for the provision of broadband service
2-32 [services].

2-33 Sec. 43.003. DEFINITIONS. In this chapter:

2-34 (1) "Broadband service" means retail Internet service
2-35 provided by a commercial Internet service provider with the
2-36 capability of providing a download speed of at least 25 megabits per
2-37 second and an upload speed of at least 3 megabits per second ["BPL,"
2-38 "broadband over power lines," and "BPL services" mean the provision
2-39 of broadband services over electric power lines and related
2-40 facilities, whether above ground or in underground conduit].

2-41 (2) "Internet ["BPL access" means the ability to
2-42 access broadband services via a BPL operator or BPL Internet
2-43 service provider.

2-44 ~~[(3) "BPL operator" means an entity that owns or~~
2-45 ~~operates a BPL system on the electric power lines and related~~
2-46 ~~facilities of an electric utility.~~

2-47 ~~[(4) "BPL Internet] service provider" means a~~
2-48 commercial [and "BPL ISP" mean an] entity that provides Internet
2-49 services [to others on a wholesale basis or] to end-use customers on
2-50 a retail basis.

2-51 ~~(3) [(5) "BPL system" means the materials, equipment,~~
2-52 ~~and other facilities installed on electric utility property to~~
2-53 ~~facilitate the provision of BPL services.~~

2-54 ~~[(6) "BPL electric utility applications" means~~
2-55 ~~services and technologies that are used and useful and designed to~~
2-56 ~~improve the operational performance and service reliability of an~~
2-57 ~~electric utility including, but not limited to, automated meter~~
2-58 ~~reading, real time system monitoring and meter control, remote~~
2-59 ~~service control, outage detection and restoration, predictive~~
2-60 ~~maintenance and diagnostics, and monitoring and enhancement of~~
2-61 ~~power quality.~~

2-62 ~~[(7)] "Electric delivery system" means the power lines~~
2-63 and related transmission and distribution facilities constructed
2-64 [used by an electric utility] to deliver electric energy to the
2-65 electric utility's customers.

2-66 (4) ~~[(8)]~~ "Electric utility" includes [shall include]
2-67 an electric utility and a transmission and distribution utility as
2-68 defined in Section 31.002(6) or (19).

2-69 (5) "Middle mile broadband service" means the

3-1 provision of excess fiber capacity on an electric utility's
3-2 electric delivery system or other facilities to an Internet service
3-3 provider to provide broadband service. The term does not include
3-4 provision of Internet service to end-use customers on a retail
3-5 basis.

3-6 SUBCHAPTER B. DEVELOPMENT OF MIDDLE MILE BROADBAND SERVICE [BPL
3-7 SYSTEMS]

3-8 Sec. 43.051. AUTHORIZATION FOR MIDDLE MILE BROADBAND
3-9 SERVICE [BPL SYSTEM]. (a) An [affiliate of an] electric utility
3-10 [or a person unaffiliated with an electric utility] may own,
3-11 construct, maintain, and operate fiber optic cables and other
3-12 facilities for providing middle mile broadband service in unserved
3-13 and underserved areas [a BPL system and provide BPL services on an
3-14 electric utility's electric delivery system] consistent with the
3-15 requirements of this chapter. Nothing in this chapter prohibits
3-16 [shall prohibit] an entity defined in Section 11.003(9) from
3-17 providing broadband [BPL] service to an Internet service provider
3-18 or owning and operating a broadband [BPL] system as otherwise
3-19 permitted by law.

3-20 (b) The electric utility shall determine on a
3-21 nondiscriminatory basis which Internet service providers may
3-22 access excess fiber capacity on the electric utility's electric
3-23 delivery system or other facilities and provide access points to
3-24 allow connection between the electric utility's electric delivery
3-25 system or other facilities and the systems of those Internet
3-26 service providers. The electric utility shall provide access to
3-27 excess fiber capacity only on reasonable and nondiscriminatory
3-28 terms and conditions that assure the electric utility the
3-29 unimpaired ability to comply with and enforce all applicable
3-30 federal and state requirements regarding the safety, reliability,
3-31 and security of the electric delivery system. [Nothing in this
3-32 chapter shall prohibit an electric utility from providing
3-33 construction or maintenance services to a BPL operator or BPL ISP
3-34 provided that the costs of these services are properly accounted
3-35 for between the electric utility and the BPL operator or BPL ISP.]

3-36 Sec. 43.052. [OWNERSHIP AND OPERATION OF BPL SYSTEM. (a)
3-37 An electric utility may elect to:

3-38 [(1) allow an affiliate to own or operate a BPL system
3-39 on the utility's electric delivery system;

3-40 [(2) allow an unaffiliated entity to own or operate a
3-41 BPL system on the electric utility's electric delivery system; or

3-42 [(3) allow an affiliate or unaffiliated entity to
3-43 provide Internet service over a BPL system.

3-44 [(b) The BPL operator and the electric utility shall
3-45 determine what BPL Internet service providers may have access to
3-46 broadband capacity on the BPL system.

3-47 [Sec. 43.053. FEES AND] CHARGES. [(a)] An electric utility
3-48 that owns and operates facilities to provide middle mile broadband
3-49 service may lease excess fiber capacity on the electric utility's
3-50 electric delivery system or other facilities to an Internet service
3-51 provider on a wholesale basis and [allows an affiliate or an
3-52 unaffiliated entity to own a BPL system on the electric utility's
3-53 electric delivery system] shall charge the Internet service
3-54 provider [owner of the BPL system] for the use of the electric
3-55 utility's [electric delivery] system for all costs associated with
3-56 that use. The rates, terms, and conditions of a lease of excess
3-57 fiber capacity described by this section must be nondiscriminatory.
3-58 An electric utility may not lease excess fiber capacity to provide
3-59 middle mile broadband service to an affiliated Internet service
3-60 provider.

3-61 [(b) An electric utility may pay a BPL owner, a BPL
3-62 operator, or a BPL ISP for the use of the BPL system required to
3-63 operate BPL utility applications.

3-64 [(c) If all or part of a BPL system is installed on poles or
3-65 other structures of a telecommunications utility as that term is
3-66 defined in Section 51.002, the owner of the BPL system shall be
3-67 required to pay the telecommunications utility an annual fee
3-68 consistent with the usual and customary charges for access to the
3-69 space occupied by that portion of the BPL system so installed.

4-1 ~~[(d) Notwithstanding Subsections (a)-(c):~~

4-2 ~~[(1) an electric utility may not charge an affiliate~~
4-3 ~~under this section an amount less than the electric utility would~~
4-4 ~~charge an unaffiliated entity for the same item or class of items;~~

4-5 ~~[(2) an electric utility may not pay an affiliate~~
4-6 ~~under this section an amount more than the affiliate would charge an~~
4-7 ~~unaffiliated entity for the same item or class of items; and~~

4-8 ~~[(3) an electric utility or an affiliate of an~~
4-9 ~~electric utility may not discriminate against a retail electric~~
4-10 ~~provider that is not affiliated with the utility in the terms or~~
4-11 ~~availability of BPL services.]~~

4-12 Sec. 43.053 [~~43.054~~]. NO ADDITIONAL EASEMENTS OR
4-13 CONSIDERATION REQUIRED. (a) Because broadband [~~BPL~~] systems
4-14 provide benefits to electric delivery systems, the installation of
4-15 facilities to provide middle mile broadband service [~~a BPL system~~]
4-16 on an electric delivery system or other facilities does [~~shall~~] not
4-17 require the electric utility [~~or the owner of the BPL system~~] or an
4-18 entity defined in Section 11.003(9) to obtain, modify, or expand
4-19 easements or other rights-of-way for the middle mile broadband
4-20 service [~~BPL system~~] or to give additional consideration as a
4-21 result of the installation or the operation of middle mile
4-22 broadband service on the electric delivery system or other
4-23 facilities of the electric utility or entity, unless the property
4-24 owner protests the use as provided by this section [~~a BPL system~~].

4-25 (b) Not later than the 60th day before the date an electric
4-26 utility begins construction in an easement or other property right
4-27 of fiber optic cables and other facilities for providing middle
4-28 mile broadband service, the electric utility shall provide written
4-29 notice to the owners of the affected property of the electric
4-30 utility's intent to use the easement or other property right for
4-31 middle mile broadband service.

4-32 (c) Notice under this section must:

4-33 (1) be sent by first class mail to the last known
4-34 address of each person in whose name the affected property is listed
4-35 on the most recent tax roll of each county authorized to levy
4-36 property taxes against the property; and

4-37 (2) state whether any new fiber optic cables used for
4-38 middle mile broadband service will be located above or below ground
4-39 in the easement or other property right.

4-40 (d) Not later than the 60th day after the date an electric
4-41 utility mails notice under this section, a property owner entitled
4-42 to the notice may submit to the electric utility a written protest
4-43 of the intended use of the easement or other property right for
4-44 middle mile broadband service. An electric utility that receives a
4-45 timely written protest may not use the easement or other property
4-46 right for middle mile broadband service unless the protestor later
4-47 agrees in writing to that use or that use is authorized by law. If a
4-48 property owner fails to submit a timely written protest, an
4-49 electric utility may proceed under Subsection (a) without modifying
4-50 or expanding the easement for that property owner.

4-51 (e) An electric utility that receives a timely written
4-52 protest under Subsection (d) regarding proposed middle mile
4-53 broadband service may cancel the project at any time.

4-54 (f) The requirements of this section do not apply to an
4-55 existing easement that permits the provision of third-party middle
4-56 mile broadband service on an electric delivery system. [~~For~~
4-57 purposes of this section, installation of a BPL system shall be
4-58 deemed to be consistent with installation of an electric delivery
4-59 system.]

4-60 Sec. 43.054 [~~43.055~~]. RELIABILITY OF ELECTRIC SYSTEMS
4-61 MAINTAINED. An electric utility that installs [~~allows the~~
4-62 ~~installation~~] and operates facilities to provide middle mile
4-63 broadband service [~~operation of a BPL system on its electric~~
4-64 ~~delivery system~~] shall employ all reasonable measures to ensure
4-65 that the operation of the middle mile broadband service [~~BPL~~
4-66 ~~system~~] does not interfere with or diminish the reliability of the
4-67 utility's electric delivery system. If [~~Should~~] a disruption in
4-68 the provision of electric service occurs [~~occur~~], the electric
4-69 utility is [~~shall be~~] governed by the terms and conditions of the

5-1 retail electric delivery service tariff. The electric utility may
 5-2 take all necessary actions regarding its middle mile broadband
 5-3 service and the facilities required in the provision of that
 5-4 service to address circumstances that may pose health, safety,
 5-5 security, or reliability concerns. At all times, the provision of
 5-6 broadband service is [~~services shall be~~] secondary to the reliable
 5-7 provision of electric delivery services. Except as provided by
 5-8 contract or tariff, an electric utility is not liable to any person,
 5-9 including an Internet service provider, for any damages, including
 5-10 direct, indirect, physical, economic, exemplary, or consequential
 5-11 damages, including loss of business, loss of profits or revenue, or
 5-12 loss of production capacity caused by a fluctuation, disruption, or
 5-13 interruption of middle mile broadband service that is caused in
 5-14 whole or in part by:

5-15 (1) force majeure; or

5-16 (2) the electric utility's provision of electric
 5-17 delivery services, including actions taken by the electric utility
 5-18 to ensure the reliability and security of the electric delivery
 5-19 system and actions taken in response to address all circumstances
 5-20 that may pose health, safety, security, or reliability concerns.

5-21 SUBCHAPTER C. IMPLEMENTATION OF MIDDLE MILE BROADBAND SERVICE [BPL
 5-22 SYSTEM] BY ELECTRIC UTILITY

5-23 Sec. 43.101. PARTICIPATION BY ELECTRIC UTILITY. (a) An
 5-24 electric utility [~~, through an affiliate or through an unaffiliated~~
 5-25 entity,] may [~~elect to~~] install and operate facilities to provide
 5-26 middle mile broadband service [~~a BPL system~~] on any part of its
 5-27 electric delivery system or other facilities for Internet service
 5-28 providers but may not construct new electric delivery facilities
 5-29 for the purpose of expanding the electric utility's middle mile
 5-30 broadband service [~~some or all of its electric delivery system in~~
 5-31 any part or all of its certificated service area].

5-32 (b) The installation, operation, and use of middle mile
 5-33 broadband service and the lease of excess fiber capacity by
 5-34 Internet service providers from an electric utility may [~~a BPL~~
 5-35 system and the provision of BPL services shall] not be regulated by
 5-36 any state agency, a municipality, or local government other than as
 5-37 provided by [~~for in~~] this chapter.

5-38 (c) An electric utility that owns and operates middle mile
 5-39 broadband service:

5-40 (1) may lease excess fiber capacity on the electric
 5-41 utility's electric delivery system or other facilities to an
 5-42 Internet service provider on a wholesale basis; and

5-43 (2) may not provide Internet service to end-use
 5-44 customers on a retail basis.

5-45 (d) [~~(c)~~] The commission or a state or local government or a
 5-46 regulatory or quasi-governmental or a quasi-regulatory authority
 5-47 may not:

5-48 (1) require an electric utility [~~, either through an~~
 5-49 affiliate or an unaffiliated entity,] to install [~~a BPL system on~~
 5-50 its power lines] or offer middle mile broadband service on the
 5-51 utility's electric delivery system or other facilities [~~BPL~~
 5-52 services in all or any part of the electric utility's certificated
 5-53 service area];

5-54 (2) require an electric utility to allow others to
 5-55 install middle mile broadband service [~~a BPL system~~] on the
 5-56 utility's electric delivery system or other facilities [~~in any part~~
 5-57 or all of the electric utility's certificated service area]; or

5-58 (3) prohibit an electric utility from installing or
 5-59 offering middle mile broadband service on the utility's electric
 5-60 delivery system or other facilities [~~having an affiliate or~~
 5-61 unaffiliated entity install a BPL system or offering BPL services
 5-62 in any part or all of the electric utility's certificated service
 5-63 area].

5-64 (e) [~~(d)~~] If a municipality or local government is already
 5-65 collecting a charge or fee from the electric utility for the use of
 5-66 the public rights-of-way for the delivery of electricity to retail
 5-67 electric customers, the municipality or local government may not
 5-68 require [~~is prohibited from requiring] a franchise or an amendment~~
 5-69 to a franchise or require an additional [~~from requiring a] charge,~~

6-1 fee, or tax from the electric utility [any entity] for use of the
6-2 public rights-of-way for middle mile broadband service [a BPL
6-3 system].

6-4 (f) If the state or a municipality or local government is
6-5 not already collecting a charge or fee from the electric utility for
6-6 the use of the public rights-of-way, the [(-e) The] state or a
6-7 municipality or local government may impose a charge on the
6-8 provision of middle mile broadband service [BPL services], but the
6-9 charge may not be greater than the lowest charge that the state or
6-10 municipality imposes on other providers of broadband service
6-11 [services] for use of the public rights-of-way in its respective
6-12 jurisdiction.

6-13 Sec. 43.102. COMMISSION REVIEW OF UTILITY MIDDLE MILE PLAN.

6-14 (a) An electric utility that plans a project to deploy middle mile
6-15 broadband service shall submit to the commission a written plan
6-16 that includes:

6-17 (1) the route of the middle mile broadband service
6-18 infrastructure proposed for the project;

6-19 (2) the location of the electric utility's
6-20 infrastructure that will be used in connection with the project;

6-21 (3) an estimate of potential broadband customers that
6-22 would be served by the Internet service provider;

6-23 (4) the estimated cost of the project, including
6-24 engineering costs, construction costs, permitting costs,
6-25 right-of-way costs, and a reasonable allowance for funds used
6-26 during construction;

6-27 (5) the proposed schedule of construction for the
6-28 project;

6-29 (6) testimony, exhibits, or other evidence that
6-30 demonstrates the project will allow for the provision and
6-31 maintenance of middle mile broadband service; and

6-32 (7) any other information that the applicant considers
6-33 relevant or that the commission requires.

6-34 (b) The commission, after notice and hearing if required by
6-35 the commission, shall approve the plan if the commission finds that
6-36 the plan includes all the items required by Subsection (a) and by
6-37 commission rule.

6-38 (c) The commission must approve, modify, or reject a plan
6-39 submitted to the commission under this section not later than the
6-40 181st day after the date the plan is submitted under Subsection (a).
6-41 Notwithstanding any other provision of this title, if the
6-42 commission approves a plan under this section, the commission shall
6-43 issue a finding on the approved middle mile broadband service that:

6-44 (1) the service is used and useful to the electric
6-45 utility;

6-46 (2) the costs associated with the service are
6-47 reasonable; and

6-48 (3) the service is prudent and may be included in the
6-49 electric utility's rate base.

6-50 (d) An approved plan may be updated or amended subject to
6-51 commission approval in accordance with this section.

6-52 Sec. 43.103 [43.102]. COST RECOVERY FOR DEPLOYMENT OF
6-53 MIDDLE MILE BROADBAND FACILITIES [BPL AND UTILITY APPLICATIONS].

6-54 (a) Where an electric utility installs facilities used to provide
6-55 middle mile broadband service [permits the installation of a BPL
6-56 system on its electric delivery system] under Section 43.051
6-57 [43.052(a)], the electric utility's investment in those facilities
6-58 is [that BPL system to directly support the BPL electric utility
6-59 applications and other BPL services consumed by the electric
6-60 utility that are used and useful in providing electric utility
6-61 service shall be] eligible for inclusion in the electric utility's

6-62 invested capital, and any fees or operating expenses that are
6-63 reasonable and necessary are [shall be] eligible for inclusion as

6-64 operating expenses for purposes of any proceeding under Chapter 36.
6-65 The commission may allow an electric utility to recover investment

6-66 and associated costs in middle mile broadband service if the plan
6-67 for the service has been submitted and approved under Section

6-68 43.102 [The invested capital and expenses described in this section
6-69 must be allocated to the customer classes directly receiving the

7-1 ~~services].~~
7-2 (b) In a ~~[any]~~ proceeding under Chapter 36, revenue received
7-3 by an electric utility from an Internet service provider for the use
7-4 of middle mile broadband service must be applied as a revenue credit
7-5 to customers in proportion to the customers' funding of the
7-6 underlying infrastructure ~~[just and reasonable charges for the use~~
7-7 ~~of the electric utility's electric delivery system by a BPL owner or~~
7-8 ~~operator shall be limited to the usual and customary pole~~
7-9 ~~attachment charges paid to the electric utility for comparable~~
7-10 ~~space by cable television operators].~~

7-11 ~~[(c) The revenues of an affiliated BPL operator or an~~
7-12 ~~affiliated BPL ISP shall not be deemed the revenues of an electric~~
7-13 ~~utility for purposes of setting rates under Chapter 36.]~~

7-14 SUBCHAPTER D. MISCELLANEOUS PROVISIONS

7-15 Sec. 43.151. ~~[AFFILIATES OF ELECTRIC UTILITY. (a) Subject~~
7-16 ~~to the limitations of this chapter, an electric utility may have a~~
7-17 ~~full or partial ownership interest in a BPL operator or a BPL~~
7-18 ~~ISP. Whether a BPL operator or a BPL ISP is an affiliate of the~~
7-19 ~~electric utility shall be determined under Section 11.003(2) or~~
7-20 ~~Section 11.006.~~

7-21 ~~[(b) Neither a BPL operator nor a BPL ISP shall be~~
7-22 ~~considered a "competitive affiliate" of an electric utility as that~~
7-23 ~~term is defined in Section 39.157.~~

7-24 ~~[Sec. 43.152.] COMPLIANCE WITH FEDERAL AND STATE LAW. An~~
7-25 ~~electric utility that owns and operates facilities for the~~
7-26 ~~provision of middle mile broadband service [BPL operators] shall~~
7-27 ~~comply with all applicable federal and state laws[, including those~~
7-28 ~~protecting licensed spectrum users from interference by BPL~~
7-29 ~~systems. The operator of a radio frequency device shall be~~
7-30 ~~required to cease operating the device upon notification by a~~
7-31 ~~Federal Communications Commission or Public Utilities Commission~~
7-32 ~~representative that the device is causing harmful~~
7-33 ~~interference. Operation shall not resume until the condition~~
7-34 ~~causing the harmful interference has been corrected].~~

7-35 SECTION 2. Section 33.001(b), Utilities Code, is repealed.

7-36 SECTION 3. Not later than the 270th day after the effective
7-37 date of this Act, the Public Utility Commission of Texas shall adopt
7-38 any rules necessary to implement Chapter 43, Utilities Code, as
7-39 amended by this Act.

7-40 SECTION 4. The Public Utility Commission of Texas is
7-41 required to implement a provision of this Act only if the
7-42 legislature appropriates money specifically for that purpose. If
7-43 the legislature does not appropriate money specifically for that
7-44 purpose, the commission may, but is not required to, implement a
7-45 provision of this Act using other appropriations that are available
7-46 for that purpose.

7-47 SECTION 5. This Act takes effect immediately if it receives
7-48 a vote of two-thirds of all the members elected to each house, as
7-49 provided by Section 39, Article III, Texas Constitution. If this
7-50 Act does not receive the vote necessary for immediate effect, this
7-51 Act takes effect September 1, 2021.

7-52 * * * * *