By:  Nichols, et al. S.B. No. 14

(In the Senate - Filed February 6, 2019; February 7, 2019, read first time and referred to Committee on Business & Commerce; March 27, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 7, Nays 1; March 27, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell                 X

Creighton            X

Menéndez                       X

Paxton               X

Schwertner           X

Whitmire             X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR S.B. No. 14 By:  Nichols

A BILL TO BE ENTITLED

AN ACT

relating to broadband service or facilities provided by an electric cooperative.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.   Subchapter C, Chapter 181, Utilities Code, is amended by adding Section 181.048 to read as follows:

Sec. 181.048.  ELECTRIC COOPERATIVE BROADBAND FACILITIES. (a) In this section:

(1)  "Broadband service" means Internet service with the capability of providing:

(A)  a download speed of 25 megabits per second or faster; and

(B)  an upload speed of three megabits per second or faster.

(2)  "Electric cooperative" means an electric cooperative organized under Chapter 161 or a predecessor statute to Chapter 161.

(3)  "Pole attachment" has the meaning assigned by Section 252.001.

(b)  An electric cooperative or an electric cooperative affiliate may construct, operate, and maintain fiber optic cables and other facilities for providing broadband service over, under, across, on, or along real property, personal property, rights-of-way, and easements owned, held, or used by the cooperative. An easement or other property right owned, held, or used by the electric cooperative to provide electricity or other services may also be used to provide broadband service.

(c)  An electric cooperative shall charge pole attachment fees to an electric cooperative affiliate for broadband facilities that are comparable to the pole attachment fees that the electric cooperative charges to other broadband service providers for broadband facilities.

(d)  An electric cooperative or electric cooperative affiliate that provides broadband service shall maintain separate books and records of broadband service operations and the broadband service operations of any subsidiary and shall ensure that the rates charged for provision of electric service do not include any broadband service costs or any other costs not related to the provision of electric service.

(e)  Subject to Subsection (f), not later than the 60th day before the date the electric cooperative or electric cooperative affiliate begins construction in an easement or other property right granted before that date of fiber optic cables and other facilities for providing broadband service, the electric cooperative or affiliate must provide written notice to the owners of property in which the easement or property right is located of the intent to use the easement or other property right for broadband service. The electric cooperative or electric cooperative affiliate shall send the notice by first class mail to the last known address of each person in whose name the property is listed on the most recent tax roll of each county authorized to levy property taxes against the property. The notice must state whether any new fiber optic cables used for broadband service will be located above or below ground in the easement or other property right. Not later than the 60th day after the date notice is mailed by the electric cooperative or electric cooperative affiliate, a property owner entitled to notice under this subsection may submit to the cooperative or affiliate a written protest of the intended use of the easement or other property right for broadband service. If an electric cooperative or electric cooperative affiliate receives a timely written protest under this subsection, the electric cooperative or electric cooperative affiliate may not use the easement or other property right for broadband service unless the protestor later agrees in writing to that use or that use is authorized by other law.

(f)  Subsection (e) does not apply to an electric cooperative's or an electric cooperative affiliate's use of an easement or other property right that includes an authorization for the use of the easement or property right for the provision of broadband service or similar communications service.

(g)  This section may not be construed to:

(1)  conflict with or limit the provisions of Chapter 43; or

(2)  limit or prohibit an electric cooperative's use of the cooperative's cables or other facilities to operate and maintain the cooperative's electric transmission or distribution system or to provide electric service.

SECTION 2.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

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