

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.

(b) An electric cooperative or 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, easements, and licenses and other property rights owned, held, or used by the cooperative. An easement or other property right owned, held, or used by the electric cooperative to

1 provide electricity or other services may also be used to provide
2 broadband service.

3 (c) The monetary rates applicable to an electric
4 cooperative or electric cooperative affiliate for attaching
5 broadband facilities on the electric cooperative's poles must be
6 just and reasonable and may not be less than the monetary rates the
7 electric cooperative charges to other broadband service providers
8 for attaching broadband facilities to the electric cooperative's
9 poles. The terms and conditions applicable to an electric
10 cooperative or electric cooperative affiliate for attaching
11 broadband facilities on the electric cooperative's poles must be
12 just and reasonable and be comparable to the terms and conditions
13 the electric cooperative applies to other broadband service
14 providers for attaching broadband facilities to the electric
15 cooperative's poles. This subsection does not limit or restrict an
16 electric cooperative or electric cooperative affiliate from
17 installing fiber optic cables in the supply space of the electric
18 cooperative's poles.

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

26 (e) Subject to Subsection (f), not later than the 60th day
27 before the date the electric cooperative or electric cooperative

1 affiliate begins construction in an easement or other property
2 right that existed before that date of fiber optic cables and other
3 facilities for providing broadband service, the electric
4 cooperative or electric cooperative affiliate must provide written
5 notice to the owners of property in which the easement or property
6 right is located of the intent to use the easement or other property
7 right for broadband service. The electric cooperative or electric
8 cooperative affiliate shall send the notice by first class mail to
9 the last known address of each person in whose name the property is
10 listed on the most recent tax roll of each county authorized to levy
11 property taxes against the property. The notice must state whether
12 any new fiber optic cables used for broadband service will be
13 located above or below ground in the easement or other property
14 right. Not later than the 60th day after the date notice is mailed
15 by the electric cooperative or electric cooperative affiliate, a
16 property owner entitled to notice under this subsection may submit
17 to the electric cooperative or electric cooperative affiliate a
18 written protest of the intended use of the easement or other
19 property right for broadband service. If an electric cooperative
20 or electric cooperative affiliate receives a timely written protest
21 under this subsection, the electric cooperative or electric
22 cooperative affiliate may not use the easement or other property
23 right for broadband service unless the protestor later agrees in
24 writing to that use or that use is authorized by law.

25 (f) Subsection (e) does not apply to an electric
26 cooperative's or electric cooperative affiliate's use of an
27 easement or other property right that includes an authorization for

1 the use of the easement or property right for the provision of
2 broadband service or similar communications service.

3 (g) This section may not be construed to:

4 (1) conflict with or limit the provisions of Chapter
5 43; or

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 14 passed the Senate on April 4, 2019, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendments on May 21, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 14 passed the House, with amendments, on May 14, 2019, by the following vote: Yeas 139, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor