

By: Hall

S.B. No. 2460

A BILL TO BE ENTITLED

AN ACT

relating to the right of an electric cooperative to construct, maintain, and operate facilities.

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

SECTION 1. Section 41.005, Utilities Code, is amended to read as follows:

Sec. 41.005. LIMITATION ON MUNICIPAL AUTHORITY. Notwithstanding any other provision of this title, a municipality may not directly or indirectly regulate the rates, operations, and services, as that term is defined under Section 11.003, Utilities Code, including transmission services, as that term is defined under Section 31.002, Utilities Code, of an electric cooperative, except, with respect to operations, a municipality may impose conditions reasonably ~~[to the extent]~~ necessary to protect the public health, safety, or welfare. This section does not prohibit a municipality from making a lawful charge for the use of public rights-of-way within the municipality as provided by Section 182.025, Tax Code, and Section 33.008. An electric cooperative shall be an electric utility for purposes of Section 182.025, Tax Code, and Section 33.008.

SECTION 2. Section 31.002(20), Utilities Code, is amended to read as follows:

(20) "Transmission service" includes construction or enlargement of facilities, siting of infrastructure facilities,

1 transmission over distribution facilities, control area services,
2 scheduling resources, regulation services, reactive power support,
3 voltage control, provision of operating reserves, and any other
4 associated electrical service the commission determines
5 appropriate, except that, on and after the implementation of
6 customer choice, control area services, scheduling resources,
7 regulation services, provision of operating reserves, and reactive
8 power support, voltage control, and other services provided by
9 generation resources are not "transmission service."

10 SECTION 3. Section 37.052, Utilities Code, is amended by
11 adding Subsection (d) to read as follows:

12 (d) If an electric utility requests consent under
13 Subsection (c)(2) from a municipality, the municipality must grant
14 or deny such request within 90 days of the electric utility's
15 request for consent. If the municipality fails to grant or deny
16 consent within 90 days of the electric utility's consent, the
17 electric utility is presumed to have been granted such consent.

18 SECTION 4. Section 181.041(1), Utilities Code, is amended
19 to read as follows:

20 (1) "Electric utility" means:

21 (A) ~~[an electric cooperative organized under~~
22 ~~Chapter 161,~~

23 ~~[(B)]~~ a corporation or river authority, if the
24 river authority is created by a statute of this state:

25 (i) that generates, transmits, or
26 distributes electric energy in this state; and

27 (ii) whose operations are subject to the

judicial and legislative processes of this state; or

(B) [~~(C)~~] a municipal electric utility.

SECTION 5. Section 161.125, Utilities Code, is amended to read as follows:

Sec. 161.125. EMINENT DOMAIN AND AUTHORITY TO CONSTRUCT, MAINTAIN, AND OPERATE FACILITIES. (a) An electric cooperative may exercise the power of eminent domain in the manner provided by state law for acquiring private property for public use. The power does not apply to state property or property of a political subdivision in this state.

(b) An electric cooperative has the right to construct, maintain, and operate facilities over, under, across, on, or along state property or property of a political subdivision in this state.

(1) An electric cooperative may exercise this authority subject to reasonable conditions of the relevant state agency or governing body of the political subdivision necessary to protect the public health, safety, or welfare.

(2) Any such conditions must be issued by the relevant state agency or governing body of the political subdivision within 90 days of notice by the electric cooperative.

(3) The electric cooperative shall be authorized to proceed with the construction, maintenance, and operation of the facilities by the earlier of:

(A) the date the conditions issued under Subsection (b)(2) are satisfied; or

(B) a date that is not later than 120 days after

1 any such conditions under Subsection (b)(2) are issued by the
2 relevant state agency or governing body of the political
3 subdivision.

4 (4) An electric cooperative exercising this right
5 shall be subject to the requirements applicable to electric
6 utilities under Sections 181.044, 181.045, and 181.046, Utilities
7 Code.

8 SECTION 6. This Act takes effect September 1, 2023.