

By: Darby

H.B. No. 3448

Substitute the following for H.B. No. 3448:

By: King

C.S.H.B. No. 3448

A BILL TO BE ENTITLED

AN ACT

relating to the access by a certificated telecommunications provider to the rights-of-way and poles of an electric cooperative.

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

SECTION 1. Title 5, Utilities Code, is amended by adding Chapter 254 to read as follows:

CHAPTER 254. ACCESS BY CERTIFICATED TELECOMMUNICATIONS PROVIDERS
TO ELECTRIC COOPERATIVE RIGHTS-OF-WAY AND DISTRIBUTION POLES

Sec. 254.001. DEFINITIONS. In this chapter:

(1) "Certificated telecommunications provider" means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the Public Utility Commission of Texas to offer local exchange telephone service or a person who provides voice service.

(2) "Make ready costs" means the costs associated with the modification or replacement of a pole, or of the lines or equipment on the pole, to accommodate additional facilities.

(3) "Pole" means a pole carrying distribution lines with a voltage rating no higher than 34.5 kilovolts.

(4) "Pole attachment" means an affixture of cables, strands, wires, and associated equipment attached to a pole directly or indirectly or placed in a right-of-way owned or controlled by an electric cooperative.

1 Sec. 254.002. CONSTRUCTION. Unless defined by Section
2 254.001, the technical terms and phrases in this chapter shall be
3 construed using their usual and customary meanings in the electric
4 and telecommunications industries.

5 Sec. 254.003. CONFLICT WITH OTHER LAW. To the extent of any
6 conflict between this chapter and any other law, this chapter
7 controls.

8 Sec. 254.004. ACCESS. (a) An electric cooperative shall
9 provide a certificated telecommunications provider with just,
10 reasonable, and nondiscriminatory access regarding:

11 (1) the placement of a facility in the electric
12 cooperative's right-of-way;

13 (2) a pole attachment rate or term or condition for a
14 pole that the electric cooperative owns or controls; and

15 (3) access to a building relating to Subdivision (1)
16 or (2).

17 (b) An electric cooperative may not charge a certificated
18 telecommunications provider a pole attachment rate that:

19 (1) exceeds the rate agreed to in a contract between
20 the cooperative and the provider; or

21 (2) exceeds the rate that the electric cooperative
22 would be permitted to charge under rules adopted by the Federal
23 Communications Commission under 47 U.S.C. Section 224 if the
24 electric cooperative's rates were regulated under federal law and
25 the rules of the Federal Communications Commission, including the
26 most recent default authorized rate of return for rate-of-return
27 carriers.

1 (c) The rate described by Subsection (b)(2) may be
2 established by the Public Utility Commission of Texas in a
3 contested case proceeding under Chapter 2001, Government Code.

4 (d) An electric cooperative may not charge a certificated
5 telecommunications provider any additional make ready costs or
6 other nonrecurring costs or impose on the provider any additional
7 requirements for evaluating the viability or load of the pole that
8 exceed the costs or requirements the electric cooperative would be
9 permitted to charge or impose under rules adopted by the Federal
10 Communications Commission under 47 U.S.C. Section 224 if the
11 electric cooperative's make ready costs and other nonrecurring
12 costs were regulated under federal law and the rules of the Federal
13 Communications Commission. Those costs and requirements may be
14 established by the Public Utility Commission of Texas in a
15 contested case proceeding under Chapter 2001, Government Code.

16 Sec. 254.005. OBLIGATIONS OF CERTIFICATED
17 TELECOMMUNICATIONS PROVIDER. A certificated telecommunications
18 provider shall comply with the pole attachment requirements of
19 Section 253.0403 for the purposes of this chapter to the same extent
20 as a broadband provider.

21 Sec. 254.006. AUTHORITY OF PUBLIC UTILITY COMMISSION. (a)
22 Notwithstanding Section 41.004, the Public Utility Commission of
23 Texas:

24 (1) may, on the filing of a complaint by a certificated
25 telecommunications provider or an electric cooperative, open a
26 contested case proceeding under Chapter 2001, Government Code, to
27 determine whether a pole attachment rate or make ready costs

1 charged by an electric cooperative to a certificated
2 telecommunications provider comply with Sections 254.004(b)(2) and
3 (d); and

4 (2) shall enforce this chapter and adopt rules
5 reasonably required for that purpose.

6 (b) For the purposes of enforcing this chapter, a reference
7 in Chapter 15 to a person includes an electric cooperative.

8 SECTION 2. This Act takes effect September 1, 2025.