

By: Darby

H.B. No. 3445

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the access by a certificated telecommunications
3 provider to the rights-of-way and pole charges of an electric
4 cooperative.

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

6 SECTION 1. Sec. 54.204, Utilities Code, is amended to read
7 as follows:

8 SUBCHAPTER E. MUNICIPALITIES AND ELECTRIC COOPERATIVES

9 Sec. 54.204. DISCRIMINATION BY A MUNICIPALITY OR AN
10 ELECTRIC COOPERATIVE PROHIBITED. (a) Notwithstanding Section
11 14.008 and Section 41.004, a municipality or a municipally owned
12 utility or an electric cooperative may not discriminate against a
13 certificated telecommunications provider regarding:

14 (1) the authorization or placement of a facility in a
15 public right-of-way or an electric cooperative right-of-way;

16 (2) access to a building; or

17 (3) a municipal utility or an electric cooperative
18 pole attachment rate or term.

19 (b) In granting consent, a franchise, or a permit for the
20 use of a public street, alley, or right-of-way within its municipal
21 boundaries, a municipality or municipally owned utility may not
22 discriminate in favor of or against a certificated
23 telecommunications provider regarding:

24 (1) municipal utility pole attachment or underground

1 conduit rates or terms; or

2 (2) the authorization, placement, replacement, or
3 removal of a facility in a public right-of-way and the reasonable
4 compensation for the authorization, placement, replacement, or
5 removal regardless of whether the compensation is in the form of:

6 (A) money;

7 (B) services;

8 (C) use of facilities; or

9 (D) another kind of consideration.

10 (c) A municipality or a municipally owned utility or an
11 electric cooperative may not charge any entity, regardless of the
12 nature of the services provided by that entity, a pole attachment
13 rate or underground conduit rate that exceeds:

14 (1) the existing rate if the attaching entity and the
15 pole owner already have a contract;

16 (2) a mutually agreed rate, if the attaching entity
17 and the pole owner agree to a new rate;

18 (3) the fee the municipality or municipally owned
19 utility or the electric cooperative would be permitted to charge
20 under rules adopted by the Federal Communications Commission under
21 47 U.S.C. Section 224(e) if the municipality's or municipally owned
22 utility's or the electric cooperative's rates were regulated under
23 federal law and the rules of the Federal Communications Commission,
24 or

25 (4) a rate determined by the commission in a contested
26 case under Chapter 2001, Government Code.

27 (d) In addition, not later than September 1, 2006, a

1 municipality or municipally owned utility shall charge a single,
2 uniform pole attachment or underground conduit rate to all entities
3 that are not affiliated with the municipality or municipally owned
4 utility regardless of the services carried over the networks
5 attached to the poles or underground conduit.

6 (e) [~~(d)~~] Notwithstanding any other law, the commission has
7 the jurisdiction necessary to enforce this section.

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