

UTILITIES CODE

TITLE 4. DELIVERY OF UTILITY SERVICES

SUBTITLE B. PROVISIONS REGULATING DELIVERY OF SERVICES

CHAPTER 181. MISCELLANEOUS POWERS AND DUTIES OF UTILITIES

SUBCHAPTER A. POWERS AND DUTIES OF GAS AND ELECTRIC CORPORATIONS

Sec. 181.001. DEFINITIONS. In this chapter:

(1) "Corporation" includes:

(A) a partnership, limited partnership, or master limited partnership;

(B) a combination of business entities composed exclusively of corporations or in which a corporation is a general partner;

(C) a limited liability company; and

(D) a gas utility or electric utility regardless of form of organization, but not including a municipally owned utility.

(2) "Electric corporation" means an electric current and power corporation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 11, Sec. 3, eff. May 3, 1999; Acts 2003, 78th Leg., ch. 559, Sec. 1, eff. June 20, 2003.

Sec. 181.002. CORPORATE POWERS. A gas or electric corporation has the powers and rights of a corporation organized for profit in this state whenever those powers and duties may be applicable.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.003. AUTHORITY TO BORROW MONEY, ISSUE STOCK, OR MORTGAGE PROPERTY. A gas or electric corporation has the right to:

(1) borrow money;

(2) issue stock, including preferred stock; or

(3) mortgage a franchise or other property of the corporation to secure a debt contracted for any purpose of the corporation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.004. CONDEMNATION OF PROPERTY. A gas or electric corporation has the right and power to enter on, condemn, and appropriate the land, right-of-way, easement, or other property of any person or corporation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.005. AUTHORITY TO LAY AND MAINTAIN LINES. (a) A gas corporation has the right to lay and maintain lines over, along, under, and across a public road, an interurban railroad, a street railroad, a canal or stream, or a municipal street or alley and over, under, and across a railroad or a railroad right-of-way only if:

(1) the pipeline complies with:

(A) all safety regulations adopted by the Railroad Commission of Texas and all federal regulations relating to pipeline facilities and pipelines; and

(B) all rules adopted by the Texas Department of Transportation or the Railroad Commission of Texas and all federal regulations regarding the accommodation of utility facilities on a right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline; and

(2) the owner or operator of the pipeline ensures that the public right-of-way and any associated facility are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline.

(b) The right granted by Subsection (a) relating to the use of a municipal street or alley is subject to the payment of charges in accordance with Section [121.2025](#) of this code and Sections [182.025](#) and [182.026](#), Tax Code.

(c) In determining the route of a pipeline within a municipality, a gas corporation shall consider using existing easements and public rights-of-way, including streets, roads, highways, and utility rights-of-way. In deciding whether to use a public easement or right-of-way, the gas corporation shall consider whether:

(1) the use is economically practicable;

(2) adequate space exists; and

(3) the use will violate, or cause the violation of any pipeline safety regulations.

(d) The Texas Department of Transportation may require the owner or operator of a pipeline to relocate the pipeline:

(1) at the expense of the owner or operator of the pipeline, if the pipeline is located on a right-of-way of the state highway system;

(2) at the expense of this state, if the pipeline is located on property in which the owner or operator of the pipeline has a private interest; or

(3) in accordance with Section 203.092, Transportation Code, at the expense of this state, if the pipeline is owned or operated by a gas utility as defined by Section 181.021 of this code or a common carrier as defined by Chapter 111, Natural Resources Code.

(e) Rules adopted by the Texas Department of Transportation regarding horizontal and vertical placement of pipelines must be reasonable and, for rights-of-way of the state highway system, must provide an appeals process through the Texas Department of Transportation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1311 (H.B. 2572), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 313 (H.B. 2289), Sec. 1, eff. June 17, 2011.

Sec. 181.006. CONSENT REQUIRED IN MUNICIPALITY. A gas corporation may exercise authority under Section 181.005 in relation to a municipal street or alley with the consent of and subject to the direction of the governing body of the municipality. Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.007. AUTHORITY TO HOLD LAND OR OTHER PROPERTY. A gas or electric corporation has the power to own, hold, or use land,

a right-of-way, an easement, a franchise, or a building or other structure as necessary for the purpose of the corporation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.008. AUTHORITY RELATING TO TRANSPORT OR SALE. (a) A gas or electric corporation has the power to generate, make, manufacture, transport, and sell gas, electric current, and power to an individual, the public, or a municipality for any purpose.

(b) A gas or electric corporation may:

(1) impose reasonable charges for an action taken under Subsection (a); and

(2) construct, maintain, and operate power plants and substations and any machinery, apparatus, pipe, pole, wire, device, or arrangements as necessary to operate its lines in this state.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.009. DISCRIMINATION PROHIBITED. A gas or electric corporation may not discriminate against a person, corporation, firm, association, or location in:

(1) charging for gas, electric current, or power; or

(2) providing service under similar circumstances.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. PROVISIONS APPLYING TO GAS UTILITIES

Sec. 181.021. DEFINITIONS. In this subchapter:

(1) "Gas facility" means a pipe, main, conductor, or other facility or fixture used to carry gas.

(2) "Gas utility" means a person, firm, corporation, or municipality engaged in the business of transporting or distributing gas for public consumption.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.022. AUTHORITY TO LAY AND MAINTAIN GAS FACILITY. A gas utility has the right to lay and maintain a gas facility through, under, along, across, or over a public highway, a public road, a public street or alley, or public water.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.023. CONSENT REQUIRED IN MUNICIPALITY. A gas utility may exercise authority under Section 181.022 in a municipality with the consent of and subject to the direction of the governing body of the municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.024. NOTICE TO STATE OR COUNTY. (a) A gas utility proposing under this subchapter to locate a gas facility in the right-of-way of a state highway or a county road not in a municipality shall give notice of the proposal to:

(1) the Texas Transportation Commission if the proposal relates to a state highway; or

(2) the commissioners court of the county if the proposal relates to a county road.

(b) On receipt of the notice, the Texas Transportation Commission or the commissioners court may designate the location in the right-of-way where the gas utility may place the gas facility.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.025. RELOCATION OF GAS FACILITY TO ALLOW CHANGE TO TRAFFIC LANE. (a) The authority of the Texas Transportation Commission under this section is limited to a gas facility on a state highway not in a municipality. The authority of the commissioners court under this section is limited to a gas facility on a county road not in a municipality.

(b) The Texas Transportation Commission or the commissioners court of a county may require a gas utility to relocate the utility's gas facility, at the utility's own expense, to allow the widening or other changing of a traffic lane.

(c) To impose a requirement under this section, the Texas Transportation Commission or the commissioners court, as appropriate, must give to the gas utility 30 days' written notice of the requirement. The notice must identify the gas facility to be relocated and indicate the location on the new right-of-way where the gas utility may place the facility.

(d) The gas utility shall replace the grade and surface of the highway or road at the utility's own expense.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.026. EFFECT OF MUNICIPAL INCORPORATION ON GAS FACILITY PREVIOUSLY LAID. A gas utility having a gas facility located in an area that becomes incorporated after the facility is in place may continue to exercise in that area the authority granted by this subchapter until the 10th anniversary of the date of the incorporation without the consent of but subject to the direction of the governing body of the municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C. PROVISIONS APPLYING TO ELECTRIC UTILITIES

Sec. 181.041. DEFINITIONS. In this subchapter:

(1) "Electric utility" means:

(A) an electric cooperative organized under Chapter 161;

(B) a corporation or river authority, if the river authority is created by a statute of this state:

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

(ii) whose operations are subject to the judicial and legislative processes of this state; or

(C) a municipal electric utility.

(2) "Municipal electric utility" means a municipality in this state that owns and operates an electric generating plant or that operates electric transmission lines or an electric distribution system.

(3) "Distribution line" means a power line operated below 60,000 volts when measured phase to phase.

(4) "Transmission line" means a power line operated at 60,000 volts or more when measured phase to phase.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 77 (S.B. 349), Sec. 1, eff.

May 18, 2013.

Sec. 181.042. AUTHORITY TO CONSTRUCT, MAINTAIN, AND OPERATE LINES. An electric utility has the right to construct, maintain, and operate lines over, under, across, on, or along a state highway, a county road, a municipal street or alley, or other public property in a municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.043. CONSENT REQUIRED IN MUNICIPALITY. (a) An electric utility may exercise authority under Section 181.042 in a municipality with the consent of and subject to the direction of the governing body of the municipality.

(b) Subsection (a) does not apply to a municipal electric utility exercising authority under Section 181.042 in its municipal territory.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.044. NOTICE TO STATE OR COUNTY. (a) An electric utility proposing under this subchapter to construct a line along the right-of-way of a state highway or a county road not in a municipality shall give notice of the proposal to:

(1) the Texas Transportation Commission if the proposal relates to a state highway; or

(2) the commissioners court of the county if the proposal relates to a county road.

(b) On receipt of the notice, the Texas Transportation Commission or the commissioners court may designate the location along the right-of-way where the electric utility may construct the line.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.045. STANDARDS FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF LINES. (a) A municipal electric utility shall construct, operate, and maintain its transmission lines and distribution lines along highways and at other places in accordance with the national electrical safety code. With regard to

clearances, an electric utility that is not a municipal electric utility shall construct, operate, and maintain its transmission lines and distribution lines along highways and at other places in accordance with the national electrical safety code.

(b) Regardless of Subsection (a), an electric utility shall:

(1) use single pole construction for a line along a highway or county road;

(2) construct a transmission line that crosses a highway or road so that the line is at least 22 feet above the surface of the traffic lane; and

(3) construct a line that is above a railroad track or railroad siding so that the line is at least 22 feet above the surface of the track or siding.

(c) Subsection (a) does not apply to a line in a municipality to the extent an ordinance or regulation applying in the municipality provides differently than the national electrical safety code.

(d) In this section, "national electrical safety code" means the National Electrical Safety Code, as published in March 1948 by the National Bureau of Standards, Handbook 30, as revised by Handbook 81, published by the National Bureau of Standards in November 1961.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 77 (S.B. 349), Sec. 2, eff. May 18, 2013.

Sec. 181.046. RELOCATION OF LINE TO ALLOW ROAD OR DITCH IMPROVEMENT. (a) The authority of the Texas Transportation Commission under this section is limited to a line on a state highway not in a municipality. The authority of the commissioners court under this section is limited to a line on a county road not in a municipality.

(b) The Texas Transportation Commission or the commissioners court of a county may require an electric utility to relocate a line of the utility, at the utility's own expense, to

allow the:

- (1) widening of a right-of-way;
- (2) changing of a traffic lane;
- (3) improving of a road bed; or
- (4) improving of a drainage ditch located on a right-of-way.

(c) To impose a requirement under this section, the Texas Transportation Commission or the commissioners court, as appropriate, must give to the electric utility 30 days' written notice of the requirement. The notice must identify the line to be relocated and indicate the location on the new right-of-way where the electric utility may place the line.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.047. EFFECT OF MUNICIPAL INCORPORATION ON LINE PREVIOUSLY CONSTRUCTED. (a) An electric utility that owns a line on a state highway or county road in a city or town that, at the time of the construction of the line, is unincorporated but that later incorporates as a municipality may continue to exercise in the municipality the authority granted by Section 181.042 until the 10th anniversary of the date of the incorporation.

(b) After that period, to continue to exercise the authority in the municipality the electric utility must have the consent of the governing body of the municipality.

(c) The governing body of the municipality may require the electric utility to relocate a pole or line, at the utility's own expense, to allow the widening or straightening of a street. To impose a requirement under this subsection, the governing body of the municipality must give to the electric utility 30 days' notice. The notice must indicate the new location for the pole or line along the right-of-way of the street.

(d) This section does not prohibit a municipality from imposing a tax or special charge for the use of a street as authorized by Subchapter B, Chapter 182, Tax Code.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

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

(c) The monetary rates applicable to an electric cooperative or electric cooperative affiliate for attaching broadband facilities on the electric cooperative's poles must be just and reasonable and may not be less than the monetary rates the electric cooperative charges to other broadband service providers for attaching broadband facilities to the electric cooperative's poles. The terms and conditions applicable to an electric cooperative or electric cooperative affiliate for attaching broadband facilities on the electric cooperative's poles must be just and reasonable and be comparable to the terms and conditions the electric cooperative applies to other broadband service providers for attaching broadband facilities to the electric cooperative's poles. This subsection does not limit or restrict an electric cooperative or electric cooperative affiliate from installing fiber optic cables in the supply space of the electric cooperative's poles.

(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 that existed before that date of fiber optic cables and other facilities for providing broadband service, the electric cooperative or electric cooperative 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 electric cooperative or electric cooperative 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 law.

(f) Subsection (e) does not apply to an electric cooperative's or 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 electric cooperative's fiber optic cables or other facilities to operate and maintain the electric cooperative's electric transmission or distribution system or to provide electric service. Added by Acts 2019, 86th Leg., R.S., Ch. 499 (S.B. 14), Sec. 1, eff. June 7, 2019.

SUBCHAPTER D. PROVISIONS APPLYING TO TELEGRAPH COMPANIES

Sec. 181.061. DEFINITION. In this subchapter, "telegraph company" includes a person, firm, corporation, or association engaged in the business of accepting and transmitting messages to and from different locations in this state through use of a telegraph.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.062. TELEGRAPH CONNECTIONS. A telegraph company engaged in business at the same location or in the same municipality as another telegraph company shall provide:

(1) means through which a message may be transferred to the lines of the other telegraph company at common locations and transmitted to the message's final destination; and

(2) facilities to assure the transfer of a message in compliance with this section.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.063. EXCEPTIONS. (a) A telegraph company is not required to transfer a message to another line if:

(1) the message originated on the company's line; and

(2) the company can deliver the message directly to its intended recipient on the company's lines.

(b) A telegraph company is not required to receive a message from another's line and transmit the message to its final destination if the message originated at a location on the company's lines.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.064. HEARING AND DETERMINATION. (a) The governing body of a municipality or, for an unincorporated area, the commissioners court of the county, shall on its own motion or on application of at least 100 residents:

(1) hear evidence as the governing body or commissioners court considers necessary; and

(2) determine whether a connection between different lines or other arrangements for transfer of messages is:

(A) necessary for public convenience; and

(B) just to the telegraph companies.

(b) After conducting a hearing and making the determinations required by Subsection (a), the governing body or commissioners court shall issue an order that:

(1) includes the findings of the governing body or commissioners court;

(2) specifies the conditions under which the arrangements for transfer of messages will be made; and

(3) specifies the proportion of expense to be paid by the owner or operator of each line.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.065. PENALTY. (a) A telegraph company shall comply with an order of a municipality's governing body or a commissioners court requiring the company to arrange for transfer of messages.

(b) A telegraph company that fails to comply with an order is subject to a penalty of \$10 for each day of noncompliance, payable to the state. The county or district attorney may bring suit to recover the penalty.

(c) A penalty may not be imposed against a telegraph company for noncompliance with an order if:

(1) the company is prevented from making a connection through the fault or omission of another company; and

(2) the fault or omission causes the company's failure to connect.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.066. APPEAL. (a) A telegraph company ordered to transfer messages under this subchapter has the right to appeal to the court having jurisdiction over the matter.

(b) If the court finds that the telegraph company had reasonable grounds for bringing the appeal, the court shall suspend any penalty imposed under this subchapter until the appeal is finally determined.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. PROVISIONS APPLYING TO TELEPHONE AND TELEGRAPH
CORPORATIONS

Sec. 181.081. DEFINITIONS. In this subchapter:

(1) "Facility" means a pole, pier, abutment, wire, or other fixture related to a telephone or magnetic telegraph line.

(2) "Telegraph corporation" means a corporation created to construct and maintain magnetic telegraph lines.

(3) "Telephone corporation" means a corporation created to construct and maintain telephone lines.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.082. AUTHORITY TO INSTALL FACILITY IN RELATION TO PUBLIC PROPERTY. A telephone or telegraph corporation may install a facility of the corporation along, on, or across a public road, a public street, or public water in a manner that does not inconvenience the public in the use of the road, street, or water.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.083. AUTHORITY TO CONSTRUCT LINE ON PRIVATE PROPERTY. A telephone or telegraph corporation may enter land in which a private person or a corporation owns a fee or lesser estate to:

(1) make a preliminary survey or examination to prepare for the construction of a telephone or telegraph line;

(2) change the location of a part of a telephone or

telegraph line as necessary; or

(3) construct or repair a telephone or telegraph line.
Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.084. APPROPRIATION OR CONDEMNATION OF LAND. A telephone or telegraph corporation has the right to:

(1) appropriate as much land owned by a private person or a corporation as is necessary to construct a facility; or

(2) condemn land to acquire a right-of-way or other interest in the land for the use of the telephone or telegraph corporation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.085. PROHIBITION ON LAND CONTRACT EXCLUDING ANOTHER TELEGRAPH UTILITY. A telegraph corporation may not contract with an owner of land for the right to construct and maintain a telegraph line over the land to the exclusion of the line of another telegraph corporation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.086. LINES IN OR OUTSIDE STATE. A telegraph corporation may construct, own, use, or maintain a telegraph line in or outside this state.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.087. USE OF ANOTHER'S TELEGRAPH LINE. (a) A telegraph corporation may:

(1) lease the telegraph line of another telegraph corporation;

(2) as the result of a lease or purchase, attach to its telegraph line the telegraph line of another telegraph corporation; or

(3) join with any other corporation or association to construct, lease, own, use, or maintain a telegraph line.

(b) An action under Subsection (a)(3) must be taken in accordance with an agreement made by the directors or managers of the telegraph corporations.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.088. CONSOLIDATION OF UTILITIES. (a) A telephone or telegraph corporation organized under the law of this state may consolidate or otherwise unite with one or more other companies organized under the law of a state or the United States if the union or consolidation:

(1) is approved, at a regular meeting of the corporation's stockholders, by a vote of persons holding a majority of the shares of stock of the corporation; and

(2) is done with the consent of each other company.

(b) The company resulting from the consolidation or other union may hold, use, and enjoy the rights and privileges given by the law of this state to, and has the same liabilities of, a company separately organized under the law of this state relating to corporations.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.089. MUNICIPAL REGULATION. (a) The appropriate authorities of a municipality through which a line of a telephone or telegraph corporation is to pass may adopt, by ordinance or another method, regulations governing the corporation that specify the:

(1) location of the facilities of the corporation;

(2) kind of posts that must be used by the corporation;

or

(3) height at which the wires of the corporation must be placed.

(b) After the construction of the telephone or telegraph line, the appropriate authorities of the municipality, after giving the corporation or its agents an opportunity to be heard, may direct any change in:

(1) the construction or location of the facilities;

or

(2) the height at which the corporation must locate the wires.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER F. PROVISIONS APPLYING TO COMMUNITY ANTENNA AND CABLE
TELEVISION UTILITIES

Sec. 181.101. DEFINITIONS. In this subchapter:

(1) "Equipment" means a line, wire, cable, pipe, conduit, conductor, pole, or other facility for the transmission of community antenna or cable television service.

(2) "Person" means an individual, firm, or corporation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.102. AUTHORITY TO INSTALL AND MAINTAIN EQUIPMENT.

(a) In an unincorporated area, a person in the business of providing community antenna or cable television service to the public may install and maintain equipment through, under, along, across, or over a utility easement, a public road, an alley, or a body of public water in accordance with this subchapter.

(b) The installation and maintenance of the equipment must be done in a way that does not unduly inconvenience the public using the affected property.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.103. NOTICE TO STATE OR COUNTY. (a) A person proposing to install equipment under Section 181.102 in the right-of-way of a state highway or a county road shall give notice of the proposal to:

(1) the Texas Department of Transportation if the proposal relates to a state highway; or

(2) the commissioners court of the county if the proposal relates to a county road.

(b) On receipt of the notice, the Texas Department of Transportation or commissioners court may designate the location in the right-of-way where the person may install the equipment, if the equipment is not to be installed on an existing facility.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.104. RELOCATION OF EQUIPMENT TO ALLOW CHANGE TO

TRAFFIC LANE. (a) The authority of the Texas Department of Transportation under this section is limited to equipment installed in connection with a state highway. The authority of the commissioners court under this section is limited to equipment installed in connection with a county road.

(b) The Texas Department of Transportation or the commissioners court of a county may require a person who has installed equipment in the right-of-way of a state highway or county road to relocate the person's equipment to allow the widening or other changing of a traffic lane.

(c) To impose a requirement under this section, the Texas Department of Transportation or the commissioners court, as appropriate, must give to the person written notice of the requirement not later than the 45th day before the date the relocation is to be made. The notice must identify the equipment to be relocated and indicate the location in the right-of-way where the person may reinstall the equipment.

(d) The person shall pay the cost of repairing a state highway or county road damaged by the relocation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 181.901. AUTHORITY OF GENERAL-LAW MUNICIPALITY TO PROTECT UTILITY. (a) The governing body of a general-law municipality may adopt an ordinance that applies to a utility using the streets and public grounds of the municipality and that protects the utility:

(1) in the free enjoyment of the utility's rights and privileges; and

(2) from interference with the utility's property and franchises.

(b) In this section, "utility" means a person, company, or corporation engaged in furnishing water, gas, telephone, light, power, or sewage service to the public.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.902. AUTHORITY OF GENERAL-LAW MUNICIPALITY TO PREVENT USE OR WASTE OF UTILITY COMMODITY OR SERVICE. (a) The governing body of a general-law municipality may adopt an ordinance that prevents the free or unauthorized use or the waste of a commodity or service furnished by a utility that uses the streets and public grounds of the municipality.

(b) In this section, "utility" has the meaning assigned to the term by Section 181.901.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.903. RESTRICTION ON REGULATION OF UTILITY SERVICES AND INFRASTRUCTURE. (a) In this section:

(1) "Regulatory authority" has the meanings assigned by Sections 11.003 and 101.003.

(2) "Utility" has the meaning assigned by Section 181.901, except that the term does not include a person, company, or corporation engaged in furnishing telephone service to the public.

(b) No regulatory authority, planning authority, or political subdivision of this state may adopt or enforce an ordinance, resolution, regulation, code, order, policy, or other measure that has the purpose, intent, or effect of directly or indirectly banning, limiting, restricting, discriminating against, or prohibiting the connection or reconnection of a utility service or the construction, maintenance, or installation of residential, commercial, or other public or private infrastructure for a utility service based on the type or source of energy to be delivered to the end-use customer.

(c) An entity, including a regulatory authority, planning authority, political subdivision, or utility, may not impose any additional charge or pricing difference on a development or building permit applicant for utility infrastructure that:

(1) encourages those constructing homes, buildings, or other structural improvements to connect to a utility service based on the type or source of energy to be delivered to the end-use customer; or

(2) discourages the installation of facilities for the delivery of or use of a utility service based on the type or source

of energy to be delivered to the end-use customer.

(d) This section does not limit the ability of a regulatory authority or political subdivision to choose utility services for properties owned by the regulatory authority or political subdivision.

Added by Acts 2021, 87th Leg., R.S., Ch. 44 (H.B. [17](#)), Sec. 1, eff. May 18, 2021.