



Texas Electric Cooperatives

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Testimony of Texas Electric Cooperatives (TEC)

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Texas Electric Cooperatives (TEC) is the statewide association for the 66 distribution cooperatives and nine generation and transmission cooperatives serving Texas.

- Combined, the cooperatives serve more than two million meters in 241 of Texas' 254 counties with 300,000 miles of line.
- More than 3 million Texans benefit directly from the efficient and economical operation of our taxpaying, not-for-profit businesses.
- Member-consumers of each system control their own independent local electric business in a democratic, truly American manner. The smallest system serves approximately 3,400 meters, and the largest over 240,000.
- Co-ops average a low 5.68 meters per mile of line.
- The cooperative business model continues to prove itself to be reliable and accountable to member-consumers.
- Residential and small commercial customers make up the bulk of electric co-op business.
- Being locally owned and governed, cooperatives still embody personalized service in a truly "hometown" environment.

Cooperative Map Key

Map Locations and Headquarters Towns

COOPERATIVE	MAP NUMBER	HEADQUARTERS	COOPERATIVE	NUMBER	HEADQUARTERS
Bailey County ECA	1	Muleshoe	Lea County EC	35	Lovington, NM
Bandera EC	2	Bandera	Lighthouse EC	36	Floydada
Bartlett EC	3	Bartlett	Lyntegar EC	37	Tahoka
Big Country EC	4	Roby	Magic Valley EC	38	Mercedes
Bluebonnet EC	5	Bastrop	Medina EC	39	Hondo
Bowie-Cass EC	6	Douglassville	Mid-South Synergy	40	Navasota
Bryan Texas Utilities	7	Bryan	Navarro County EC	41	Corsicana
Central Texas EC	8	Fredericksburg	Navasota Valley EC	42	Franklin
Cherokee County ECA	9	Rusk	North Plains EC	43	Perryton
Coleman County EC	10	Coleman	Nueces EC	44	Robstown
Comanche EC	11	Comanche	Panola-Harrison EC	45	Marshall
Concho Valley EC	12	San Angelo	Pedernales EC	46 A, B	Johnson City
Cooke County ECA	13	Muenster	Rio Grande EC	47	Brackettville
CoServ Electric	14	Corinth	Rita Blanca EC	48	Dalhart
Deaf Smith EC	15	Hereford	Rusk County EC	49	Henderson
Deep East Texas EC	16	San Augustine	Sam Houston EC	50	Livingston
Fannin County EC	17	Bonham	San Bernard EC	51	Bellville
Farmers EC	18	Greenville	San Patricio EC	52	Sinton
Fayette EC	19	La Grange	South Plains EC	53	Lubbock
Fort Belknap EC	20	Olney	Southwest Arkansas	54	Texarkana, AR
Grayson-Collin EC	21	Van Alstyne	Southwest Rural EA	55	Tipton, OK
Greenbelt EC	22	Wellington	Southwest Texas EC	56	Eldorado
Guadalupe Valley EC	23	Gonzales	Swisher EC	57	Tulia
Hamilton County ECA	24	Hamilton	Taylor EC	58	Merkel
Harmon EA	25	Hollis, OK	Tri-County EC	59 A,B	Azle
Heart of Texas EC	26	McGregor	Tri-County EC, OK	60	Hooker, OK
HILCO EC	27	Itasca	Trinity Valley EC	61	Kaufman
Houston County EC	28	Crockett	United Cooperative Services	62	Cleburne
J-A-C EC	29	Bluegrove	Upshur Rural EC	63	Gilmer
Jackson EC	30	Edna	Victoria EC	64	Victoria
Jasper-Newton EC	31	Kirbyville	Wharton County EC	65	El Campo
Karnes EC	32	Karnes City	Wise EC	66	Decatur
Lamar County ECA	33	Paris	Wood County EC	67	Quitman
Lamb County EC	34	Littlefield			

What is a “pole attachment?” It is hardware attached to our poles – our property – that is not for electric service, but rather cable and telecommunications service. Holes are drilled into our poles and their equipment is attached to the pole. They are “renting” space on our pole. In some limited cases they use our easements, but in other situations, the cable company must secure its own easements, as many of our easements are on private property and for electric service only.

Who is responsible for the property? As owner of the poles, a cooperative is responsible for their placement and maintenance. The cooperative is also responsible for the safety of employees who work on and around the facilities, as well as the public, as they walk, ride and drive under and around the poles, wires and other equipment.

A cooperative’s procedures for pole attachments involve steps that are necessary to ensure the reliability and safety of the cooperative’s distribution system, including:

1. Verifying that adequate space and mechanical strength is present to safely accommodate the proposed attachments;
2. Verifying that the proposed attachments do not reduce the integrity and reliability of the cooperative’s electric system;
3. Verifying that attachments installed on our poles comply with the National Electric Safety Code requirements and construction standards; and
4. Processing costs for any modifications to our facilities necessary to accommodate the proposed attachments.

How do cooperatives and attaching companies handle their business today? By contract. There are literally hundreds of such contracts. We negotiate a contract with the attaching company that sets out the procedures for attaching, as well as the rate – or rent – for the use of our property. The contracts set out the procedures for making lawful attachments. After the contract takes effect, the attaching company is supposed to make requests for attachments and the cooperative is supposed to respond within the time frame set out in the contract.

Some cooperatives have only one or two companies attaching to their facilities, while others have multiple companies and multiple cables per company attached to their poles. There is a point at which installing more attachments cannot be accommodated on a particular pole or costly upgrades to the facilities become necessary.

The statewide average annual rate per attachment for cooperatives is a modest \$8.47. The rates are lowest in the areas of the state with the lowest population density.

Does the Federal Communications Commission (FCC) regulate pole attachments for electric cooperatives? No. While the FCC regulates pole attachments for large investor-owned utilities, electric cooperatives are not subject to FCC jurisdiction. Since cooperatives are member-owned and controlled and our members receive both electric and communications services, Congress determined that electric cooperatives were better positioned than the FCC to

establish fair and reasonable attachment arrangements. Cooperatives have a strong incentive to see that their member-consumers receive communications service and that they do not overly subsidize the business of the cable and telecommunications industries.

Has a cable provider ever been denied access to a cooperative's poles? No. We do require that a contract be in place and we do expect the attaching companies to live up to the terms of the contract.

Our discussions have thus far focused on six issues (these are all matters currently handled through contracts between the interested parties):

- **Rate Formula** - The cable companies want electric cooperatives to set their attachment rates using the Federal Communications Commission formulas which the FCC revised in 2010 to reduce the rate electric utilities are allowed to charge for attachments. Cooperatives believe that the FCC formulas require electric utilities to subsidize the large cable and telecom companies by setting pole attachment fees artificially low.

We have instead proposed that a single “Texas formula” apply in the event that cooperatives and attachers are unable to agree on a negotiated rate within a reasonable time. The “Texas formula” we proposed more accurately captures the true cost to our consumers of using their property and is currently being used by some Texas cooperatives to calculate pole attachment rates.

While the large investor-owned electric utilities in Texas are under the jurisdiction of the FCC and are thus required to subsidize cable and telecom interests, AEP, Entergy and Oncor have appealed the new federal rule to the U.S. Court of Appeals in Washington, along with a number of other electric utilities from around the country.

The Legislature established the FCC telecom formula as a cap for municipally-owned utilities in SB 5 in 2005. This FCC telecom rate produced a significantly higher rate than the new FCC formula. It would be best to ask the municipally-owned utilities how the new formula affects their systems' finances.

- **Unauthorized & Unsafe Attachments** – We proposed several provisions to address the widespread problem of cable companies placing unauthorized and unsafe attachments on cooperative property. Those include requiring a contract and permit before attachment, a written plan of correction for unpermitted or problem attachments, and the imposition of costs and sanctions for non-compliance.
- **Abandoned Attachments** – We proposed that the cable companies help resolve the widespread problem of abandoned attachments by agreeing to post a bond to pay for the removal of abandoned attachments and agreeing to a provision authorizing cooperatives to dispose of those attachments after notice to the attaching company.

- **Make-Ready Timeline** - The cable companies asked that co-ops follow the FCC make-ready timeline. We proposed following the FCC make-ready timeline with some adjustments to account for the operations of smaller systems.
- **Periodic Audit & Back Charges**– The cable companies asked that pole attachment audits be conducted by an independent third party auditor and that back charges (charges applied after unauthorized attachments are spotted) be limited to a set period of time. Discussions have focused on the timing of the audits and who should pay for the audits. We have proposed that back charges be limited to the audit period and that there should be a pole count benchmark set at the end of each audit.
- **Enforcement of Make-Ready & Contract Disputes** – The cable companies asked the co-ops to agree to binding third party arbitration for make-ready disputes. We proposed that all disputes over technical matters that might delay the attachment process go to non-binding arbitration, allowing other disputes to go directly to state district court. TEC and the cable representatives agreed to consider the pros and cons of binding vs. non-binding arbitration for time-sensitive attachment issues.
- **Easements** – The cable companies are responsible for obtaining their own easements and they shouldn't be relying on electric service easements (a pole attachment agreement allows access to the poles and facilities but does not cover the land over which the cable runs). We would like to have an indemnity provision to protect cooperatives against liability for an attaching company's failure to secure its own easement from the property's landowners.