

Public Utility Commission of Texas

Memorandum

DATE: December 21, 2005

TO: All interested parties

FROM: Elango “Raj” Rajagopal, Senior Analyst – Infrastructure Reliability Division
Andrew Kang, Attorney – Legal Division

SUBJECT: Request for proposed rule language. Project No. 31973: Rulemaking to address impact of SB5 amendment to Chapter 283 Local Government Code.

BACKGROUND

The Public Utility Commission of Texas (commission) initiated Project No. 31973 to address the impact of Senate Bill 5 (SB 5) on Chapter 283 of the Local Government Code, and amend, if necessary, PUC Subchapter R rules, regarding *Provisions Relating to Municipal Regulation and Rights-of-way Management*. On November 2, 2005 Staff issued a set of questions and sought comments from interested parties. Several parties filed responses, and the issues raised by the questions were discussed in a workshop held on this matter on November 30, 2005. At the workshop Staff indicated that the issues identified by the written and oral comments will form the basis for soliciting a proposed rule on this matter. The purpose of this memorandum is to outline the pertinent issues and provide a framework for parties to submit rule language. Interested parties may submit such language as instructed at the end of this memorandum.

SENATE BILL 5 AMENDMENT

Senate Bill 5 amended section 283.002, of the Local Government Code, by amending subsection (2) and adding subsection (7) to read as follows:

(2) "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 commission to offer local exchange telephone service or a person who provides voice service.

(7) "Voice service" means voice communications services provided through wireline facilities located at least in part in the public right-of-way, without regard to the delivery technology, including Internet protocol technology. The term does not include voice service provided by a commercial mobile service provider as defined by 47 U.S.C. Section 332(d).

ISSUES FOR THE PROPOSED RULE LANGUAGE

- A definition of voice services in P.U.C. PROC. R. 26.465(c) "Definitions"
- A definition for Packet switched voice services in P.U.C. PROC. R. 26.465(c) "Definitions"
- Under P.U.C. PROC. R. 26.465(c)(2), consider modifying the definition of "Transmission path" to include VoIP or packet switched calls or voice services.
- Under P.U.C. PROC. R. 26.465(d) "Methodology for counting access lines," consider a new section for voice services, packet switched calls, and calls switched using internet protocol technology.
- Under P.U.C. PROC. R. 26.356(e) "Lines to be counted," consider modifying the section consistent with modifications in subsection (c) and (d).

- Under P.U.C. PROC. R. 26.356(f) “Lines not to be counted,” consider modifying the section consistent with modifications in subsection (c) and (d).
- Modification of any other section of P.U.C. PROC. R. 26.465 or other rules as appropriate.

FACTORS TO CONSIDER

- Facilities based Voice providers vs. non-facilities based voice providers
- Application-based VoIP providers.
- VoIP calls routed, terminated or connected to PSTN.
- Interconnected VoIP as the term is used by FCC
- Phone to PC, PC to Phone, and PC to PC phone calls.
- Distinction between Category 1 and Category 2 services and lines when providers do not distinguish between the two services.
- The nexus between the inclusion of Voice Services and the definition of access lines.
- Other issues as appropriate.

Responses to this notice may be filed by submitting 16 copies to the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. All comments should refer to Project Number 31973. Comments must be received by 3:00 p.m. on January 10, 2006. For procedural issues, please contact Garnet Elkins at garnet.elkins@puc.state.tx.us or at (512) 936-7322. For all other matter contact Raj Rajagopal (eraj@puc.state.tx.us or at (512) 936-7392) or Janis Ervin (Janis.ervin@puc.state.tx.us or (512) 936-7372). Please note that Raj will be available after Jan 2, 2006 and Janis will be available intermittently during the holidays.