

**PUBLIC UTILITY COMMISSION OF TEXAS
REQUEST FOR COMMENTS RELATING TO RULEMAKING TO IMPLEMENT
SENATE BILL 5 AMENDMENTS TO LOCAL GOVERNMENT CODE CHAPTER 283**

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The Public Utility Commission of Texas (commission) has initiated Project Number 31973 to address the impact of Senate Bill 5 (SB 5) on Chapter 283 of the Local Government Code, and amend, if necessary, P.U.C. Substantive Rules, Chapter 26, Subchapter R, relating to *Provisions Relating to Municipal Regulation and Rights-of-way Management*. Staff seeks comments from interested parties in response to questions raised herein. The issues raised by these questions will be discussed in a workshop to be held on this matter on Wednesday, November 30, 2005.

Background

SB 5 amended Local Government Code Section 283.002, Subdivision (2) and added Subdivision (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).

Questions

In order to determine whether modifications to the commission's rule language are warranted to address the above amendment, Staff poses the following questions:

Issue 1: Currently the commission's right-of-way rules pursuant to Chapter 283 apply only to holders of commission-issued SPCOA, COA, and CCN certificates. SB 5 expands Chapter 283 to include providers of "voice services."

- (a) What type of companies/providers (that are not holders of CCN, COA, or SPCOA) offer "voice services" as contemplated by SB 5? Give examples.
- (b) What types of services are contemplated as "voice services" by SB 5? Give examples.
- (c) How do current FCC rules regarding voice over internet protocol (VoIP) carriers impact the implementation of SB 5 amendments to Chapter 283?

Issue 2: Local Government Code Section 283.002 (1) defines an "access line" and P.U.C. Substantive Rule §26.465 (d) outlines the methodology for counting access lines.

- (a) How does the inclusion of "voice services" in the amended definition of "Certificated telecommunications provider" in SB 5, impact Local Government Code Section 283.002(1) and P.U.C. Substantive Rule §26.465 (d)?
- (b) Please list any "voice services" as defined in SB 5, that are not already included in Local Government Code Section 283.002(1) and P.U.C. Substantive Rule §26.465 (d), but should be counted as an access line for compensation purposes.

Issue 3: The commission currently has three categories of access lines: Residential, Non-residential, and Point-to-point. Each of these categories has a different fee in each municipality.

- (a) Please list new “voice services” that could be counted under category 1, category 2, or category 3.

Issue 4: SB 5 Section 55.173 made the following changes to the utility code.

Sec.55.1735. Charge for Payphone Access Line: The charge or surcharge a local exchange company imposes for an access line used to provide pay telephone service in an exchange may not exceed the amount of the charge or surcharge the company imposes for an access line used for regular business purposes in that exchange.

- (a) Staff seeks comments on amending P.U.C. Substantive Rule §26.463, relating to *Methodology for Counting Access Lines and Reporting Requirements for Certificated Telecommunications Providers*, to include pay-pay phones as a Category 2 access line.

Issue 5: Impact of other sections of SB 5.

- (a) Are there other sections of SB 5 that impact the commission’s Chapter 26, Subchapter R right-of-way rules?
- (b) If so, Staff seeks comment on the impact of these sections on the commission’s right-of-way rules.

Responses to the questions 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 Monday, November 21, 2005. The workshop to discuss the written comments will be held on Wednesday, November 30, 2005, 10:00 a.m., at the offices of the Public Utility Commission of Texas, Austin, Texas 78711. For additional information please contact Garnet Elkins at garnet.elkins@puc.state.tx.us or at (512) 936-7322.

**ISSUED IN AUSTIN, TEXAS ON THE 2nd DAY OF NOVEMBER 2005
BY THE PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**