

1 SECTION 31. Section 54.008, Utilities Code, is amended to
2 read as follows:

3 Sec. 54.008. REVOCATION OR AMENDMENT OF CERTIFICATE. ~~(a)~~
4 The commission shall [may] revoke or amend a certificate [~~of~~
5 ~~convenience-and-necessity, a certificate of operating authority or~~
6 ~~a service provider certificate of operating authority]~~ after notice
7 and hearing if the commission finds that the certificate holder has
8 never provided or is no longer providing service in all or any part
9 of the certificated area.

10 ~~[(1) The commission may require one or more public utilities~~
11 ~~to provide service in an area affected by the revocation or~~
12 ~~amendment of a certificate held by a public utility.]~~

13 SECTION 32. Section 54.201, Utilities Code, is amended to
14 read as follows:

15 Sec. 54.201. CERTIFICATION PROHIBITED. The commission may
16 not grant to a municipality a network provider or service provider
17 certificate [+

18 ~~(1) certificate of convenience and necessity;~~

19 ~~(2) certificate of operating authority; or~~

20 ~~(3) service provider certificate of operating~~
21 ~~authority].~~

22 SECTION 33. Section 54.202, Utilities Code, is amended to
23 read as follows:

24 Sec. 54.202. PROHIBITED MUNICIPAL SERVICES. (a) A
25 municipality or municipally owned utility may not, directly or
26 indirectly, on its own or with another entity, [municipal electric
27 system may not] offer [for sale] to the public:

1 (1) a service for which a certificate ~~(of convenience~~
2 ~~and necessity, a certificate of operating authority, or a service~~
3 ~~provider certificate of operating authority)~~ is required; ~~(*)~~

4 (2) a service as a network provider;

5 (3) a telecommunications service or information
6 service, without regard to the technology platform used to provide
7 the service; or

8 (4) a video or broadband service, including a service
9 described by Section 51.003(a)(4), provided that this section does
10 not affect the authority of a municipality or municipally owned
11 utility to continue to offer a video or broadband service it was
12 providing on January 1, 2005.

13 (b) Subsection (a) does not prevent a municipality or
14 municipally owned utility from:

15 (1) offering a broadband network that provides
16 Internet access in municipally owned buildings, libraries, or
17 public parks;

18 (2) operating a broadband network not available to the
19 public to provide telecommunications services and advanced
20 services between municipal and other governmental facilities for
21 governmental purposes;

22 (3) providing a governmental function or service that
23 is enabled, enhanced, delivered to, or available to the public
24 using the Internet, including:

25 (A) bill paying services;

26 (B) emergency services;

27 (C) constituent services;

1 (D) utility meter reading; and
2 (E) permitting; and
3 (4) providing access to its transmission and
4 distribution facilities under a contract with another entity that
5 allows the entity to offer to the entity's customers high speed data
6 services using broadband over power line technology.

7 (c) This section may not be construed to limit:

8 (1) a municipality's or municipally owned utility's
9 ability to engage in economic development activities as expressly
10 authorized by statute;

11 (2) a municipality's or municipally owned utility's
12 ability to enter into nonexclusive, nondiscriminatory agreements
13 with private entities for the use of rights-of-way, pole
14 attachments, or other municipal or utility property for the
15 placement of an antenna or receiving equipment by those entities to
16 provide services in the municipality, to the extent expressly
17 provided by statute; or

18 (3) the authority of a municipality or municipally
19 owned utility to charge a nominal fee for providing Internet access
20 at a municipal facility or library [a nonswitched
21 telecommunications service used to connect a customer's premises
22 with:

23 [A] another customer's premises within the
24 exchange; or

25 [B] a long distance provider that serves the
26 exchange;

27 [(b) Subsection (a) applies to a service offered either

1 ~~directly or indirectly through a telecommunications provider~~.

2 SECTION 34. Section 54.2025, Utilities Code, is amended to
3 read as follows:

4 Sec. 54.2025. LEASE OF FIBER OPTIC CABLE FACILITIES.
5 Nothing in this subchapter shall prevent a municipality that
6 operates ~~or~~ a municipal electric system that is a member of a
7 municipal power agency formed under Chapter 163 by adoption of a
8 concurrent resolution by the participating municipalities on or
9 before August 1, 1975, from leasing any of the excess capacity of
10 its fiber optic cable facilities (dark fiber), so long as the rental
11 of the fiber facilities is done on a nondiscriminatory,
12 nonpreferential basis. This section does not apply to a contract to
13 lease excess capacity that is entered into before September 1,
14 2005.

15 SECTION 35. Sections 54.203(a)-(c), Utilities Code, are
16 amended to read as follows:

17 (a) If an area is or will be included within a municipality
18 as the result of annexation, incorporation, or another reason, each
19 entity ~~(telecommunications utility)~~ that holds or is entitled to
20 hold a certificate under this title to provide service or operate a
21 facility in the area before the inclusion has the right to continue
22 to provide the service or operate the facility and extend service in
23 the entity's ~~(utility's)~~ certificated area within the annexed or
24 incorporated area under the rights granted by the certificate and
25 this title.

26 (b) Notwithstanding any other law, a certificated provider
27 ~~(telecommunications utility)~~ has the right to: