

# Municipal ROW Fees for Telecom Providers

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HB 1777: Year Two

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# Overview

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- Relevant Law
- Process
- Problems With Process
- Current PUC Projects to Address Problems
- Other Related PUC Projects

# Relevant Law

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- Tex. Local Gov't Code, Chapter 283
  - HB 1777 of the 76<sup>th</sup> Legislature
- PUC Substantive Rules, Subchapter R
  - §26.461 – *Access Line Categories*
  - §26.463 – *Calculation and Reporting of a Municipality's Base Amount*
  - §26.465 – *Methodology for Counting Access Lines and Reporting Requirements for Certificated Telecommunications Providers*
  - §26.467 – *Rates, Allocation, Compensation, Adjustments, and Reporting*

# Process

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- Uniform Method
  - administratively simple
  - consistent with state and federal law
  - competitively neutral
  - nondiscriminatory
  - consistent with burdens on municipalities for incursion on ROW
  - provides fair & reasonable compensation for use of ROW

# Process

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- *Quarterly Report*
  - CTPs → PUC → Municipalities
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  - End-use customer → CTP → Municipalities
- *3 Categories of Access Line*
  - Cat 1: Switched Residential + Burglar Alarms
  - Cat 2: Switched Nonresidential
  - Cat 3: Nonswitched PTP or Private Lines

# Problems with Process

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- Oversight
  - Municipalities report difficulty in acquiring records to verify CTP reports
- Classification Uncertainty
  - CTPs report difficulty in classifying certain types of access lines
- Noncompliance
  - Some CTPs not reporting or not paying

# Oversight

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- Project No. 25433, Rulemaking to Address Municipal Authorized Review of Access Line Reporting
  - April 10 Workshop – est. scope of problem
    - Available documentation
    - Addressing proprietary information
    - Time Frame to complete review
    - Other considerations: Record Retention, Payment of Audit, Margin of Error, Penalties

# Oversight (Project No. 25433)

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- Scheduled May 9 Workshop
  - Will address documentation and process
- Future
  - Either more workshops or comments, based on progress on May 9.

# Classification Uncertainty

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- Project No. 25450, Rulemaking to Address the Redefinition of “Access Line”
  - April 9 Workshop – threshold question, scope of problem
    - Changes in Technologies, Facilities, Competitive or Market Conditions that justify changing categories or definition of access line
    - How to address classification problems

# Classification Uncertainty

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- ❑ PUC must decide if threshold has been met
- ❑ If so, change in categories or definition?
- ❑ If not, handle uncertainty in separate proceeding?
- ❑ Providers discussing amongst themselves
- ❑ Affects Muni Auth Review Project – Margin of Error & Accountability for CTPs

# Noncompliance

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- Project No. 24639, Development of Enforcement Procedures for Failure to Comply with Reporting Requirements Pursuant To P.U.C. Subst. R. §26.467
  - Rulemaking to Modify PUC Procedural Rules
  - Will impose penalties on late- and non-filers
  - Incorrect filers handled on case-by-case basis

# Other Related PUC Projects

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- Project No. 23379, *Issues Relating To Access Line Reporting and Compensation Pursuant To Subst. R. 26.465 and 26.467*
  - Access Line Reporting Database
  - other issues as necessary
- Project No. 23557, *Forum To Address Municipal and Provider Concerns relating to R.O.W. Issues*
  - Informal Dispute Resolution

# Other Related PUC Projects

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- Project No. 24640, *Issues Related to Annual Revisions to Access Line Rates for Texas Municipalities*
  - CPI, Cat Line Reallocation, New Cities

# Review

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- Relevant Law
- Process
- Problems With Process
  - Oversight, Uncertainty, Noncompliance
- Current PUC Projects to Address Problems
  - 25433 - Muni Auth Review, 25450 - Redef of “Access Line”, 24639 - Enforcement Procedures
- Other Related PUC Projects
  - 23379 – Reporting, 23557 – Forum, 24640 - Adjustments