

BILL ANALYSIS

C.S.S.B. 1004
By: Hancock
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the rapid innovation of wireless devices and related applications has revolutionized the way Texans live, work, and communicate, but these parties raise concerns that state law regarding right-of-way access for telecommunications providers is out of date and does not adequately account for new technological developments. C.S.S.B. 1004 seeks to update state law and provide a uniform framework for the deployment of network nodes in a public right-of-way.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1004 amends the Local Government Code to add provisions regarding the deployment in public right-of-way of network nodes, defined by the bill, among other terms, as equipment at a fixed location that enables wireless communications between user equipment and a communications network. The bill specifies that the term "network node" includes equipment associated with wireless communications; a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation. The bill specifies that the term does not include an electric generator; a pole, as defined by the bill; or a macro tower, as defined by the bill. The bill sets out provisions regarding the location, size, and installation standards, as applicable, of the network node and related equipment. The bill provides for the construction and enforcement of its provisions. The bill defines "public right-of-way" as the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which a municipality has an interest but expressly excludes from that definition a private easement and the airwaves above a public right-of-way with regard to wireless telecommunications. The bill defines "network provider" as a wireless service provider or a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider network nodes, node support poles, or any other structure that supports or is capable of supporting a network node.

C.S.S.B. 1004 prohibits a municipality from entering into an exclusive arrangement with any person for use of the public right-of-way for the construction, operation, marketing, or maintenance of network nodes or node support poles. The bill prohibits a public right-of-way

rate, defined by the bill as an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality for use of the public right-of-way, from exceeding an annual amount equal to \$250 multiplied by the number of network nodes installed in the public right-of-way in the municipality's corporate boundaries. The bill authorizes a municipality, at its discretion, to charge a network provider a lower rate or fee if the lower rate or fee is nondiscriminatory, is related to the use of the public right-of-way, and is not a prohibited gift of public property. The bill authorizes a municipality to adjust the amount of the rate not more often than annually and sets out provisions relating to the amount of, notice about, and application of such an adjustment. The bill authorizes a network provider that wants to connect a network node to the network using the public right-of-way to obtain transport service from a person that is paying municipal fees to occupy the public right-of-way that are the equivalent of not less than \$28 per node per month or to install its own transport facilities, subject to the certain specified conditions. The bill specifies that a public right-of-way rate required from a network provider that installs its own transport facilities is in addition to any annual public right-of-way rate required under the bill's provisions.

C.S.S.B. 1004 requires a municipality, subject to an agreement with the municipality that does not conflict with the bill's provisions, to allow collocation of network nodes on service poles on nondiscriminatory terms and conditions and at a rate not greater than \$20 per year per service pole. The bill defines "service pole" as a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including a pole that supports traffic control functions, a structure for signage, a pole that supports lighting, other than a decorative pole, and a pole or similar structure owned or operated by a municipality and supporting only network nodes. The bill prohibits a municipality from requiring a network provider to pay any compensation other than the compensation authorized by the bill for the right to use a public right-of-way for network nodes, transport facilities for network nodes, or node support poles. The bill defines "node support pole" as a pole installed by a network provider for the primary purpose of supporting a network node. The bill's provisions regarding the use of the public right-of-way apply only to activities related to transport facilities for network nodes, to activities of a network provider collocating network nodes in the public right-of-way or installing, constructing, operating, modifying, replacing, and maintaining node support poles in a public right-of-way, and to municipal authority in relation to those activities.

C.S.S.B. 1004 authorizes a network provider, except as specifically provided by the bill and subject to the bill's requirements and the approval of a permit application, if required, as a permitted use, without need for a special use permit or similar zoning review and not subject to further land use approval, to take the following actions in the public right-of-way: construct, modify, maintain, operate, relocate, and remove a network node or node support pole; modify or replace a node support pole or utility pole; and, subject to an agreement with the municipality that does not conflict with the bill's provisions, collocate on a service pole, municipally owned utility pole, node support pole, or utility pole. The bill defines "municipally owned utility pole" as a utility pole owned or operated by a municipally owned utility and located in a public right-of-way and defines "utility pole" as a pole that provides electric distribution with a voltage rating of not more than 34.5 kilovolts or services of a defined telecommunications provider. The bill subjects a network provider taking one of those specified actions to uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization and local amendments to those codes to the extent not inconsistent with the bill's provisions, including applicable public right-of-way management ordinances.

C.S.S.B. 1004 sets out general construction and maintenance requirements for the construction and maintenance of structures and facilities as described by the bill by a network provider described by the bill; sets out a general limitation on the placement of a new, modified, or replacement utility pole or node support pole installed in a public right-of-way; and restricts the height of an equipment cabinet installed as part of a network node to the height limitation on the size of network nodes prescribed by the bill, subject to applicable approval.

C.S.S.B. 1004 prohibits a network provider from installing a new node support pole in a public right-of-way without the municipality's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a municipal park or is adjacent to a street or thoroughfare that is not more than 50 feet wide and adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions. The bill requires a network provider installing a network node or node support pole in such a right-of-way to comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

C.S.S.B. 1004 requires a network provider to obtain advance approval from a municipality before collocating new network nodes or installing new node support poles in an area of the municipality zoned or otherwise designated as a historic district or as a design district if the district has decorative poles. The bill defines "design district" as an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis, "historic district" as an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law, and "decorative pole" as a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes. The bill authorizes a municipality to require, as a condition for approval of new network nodes or new node support poles in a historic district or a design district with decorative poles, reasonable design or concealment measures for the new network nodes or new node support poles and to request that a network provider comply with the design and aesthetic standards of the historic or design district and explore the feasibility of using certain camouflage measures to improve the aesthetics of the new network nodes, new node support poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in a historic district or on a design district's decorative poles. These provisions expressly may not be construed to limit a municipality's authority to enforce certain historic preservation zoning regulations.

C.S.S.B. 1004 requires a network provider, in relation to installation for which the municipality approved a permit application, to comply with certain nondiscriminatory undergrounding requirements that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval and prohibits such a described requirement or restriction from being interpreted to prohibit a network provider from replacing an existing structure. The bill authorizes a municipality to adopt a design manual for the installation and construction of network nodes and new node support poles in the public right-of-way that includes additional installation and construction details that do not conflict with the bill's provisions and authorizes the manual to include certain requirements. The bill requires a network provider to comply with a design manual, if any, in place on the date a permit application is filed in relation to work for which the municipality approved the permit application and prohibits a municipality's obligations under the bill's provisions relating to the application review process from being tolled or extended pending the adoption or modification of a design manual. The bill conditions a network provider's authority to construct, modify, or maintain in a public right-of-way a network node or node support pole that exceeds the height or distance limitations prescribed by the bill on the municipality approving the construction, modification, or maintenance subject to all applicable zoning or land use regulations and applicable codes and subject to the bill's provisions relating to applications and permits. The bill requires a municipality to be competitively neutral in the exercise of its administrative and regulatory authority related to the management of and access to the public right-of-way with regard to other users of the public right-of-way.

C.S.S.B. 1004 prohibits a municipality from prohibiting, regulating, or charging for the installation or collocation of network nodes in a public right-of-way except as otherwise provided by the bill and prohibits a municipality from directly or indirectly requiring as a

condition for issuing a permit required under the bill's provisions that the applicant perform services unrelated to the installation or collocation for which the permit is sought, including in-kind contributions. The bill prohibits a municipality from instituting a moratorium, in whole or in part, express or de facto, on filing, receiving, or processing applications or on issuing permits or other approvals, if any, for the installation of network nodes or node support poles.

C.S.S.B. 1004 authorizes a municipality with certain exceptions to require a network provider to obtain one or more permits to install a network node, node support pole, or transport facility in a public right-of-way if the permit is of general applicability to users of the public right-of-way, does not apply exclusively to network nodes, and is processed on nondiscriminatory terms and conditions regardless of the type of entity submitting the application for the permit. The bill defines "transport facility" as each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes. The bill entitles a network provider that wants to install or collocate multiple network nodes inside the territorial jurisdiction of a single municipality to file a consolidated permit application with the municipality for not more than 30 network nodes and receive permits for the installation or collocation of those network nodes. The bill sets out provisions relating to the general process relating to permit applications and provides a process for municipal review of a permit application.

C.S.S.B. 1004 requires a network provider to begin the installation for which a permit is granted not later than six months after final approval and to diligently pursue the installation to completion but authorizes a municipality to place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider. The bill authorizes a municipality to charge an application fee for a permit only if the municipality requires the payment of the fee for similar types of commercial development inside the municipality's territorial jurisdiction other than a type for which application or permit fees are not allowed by law and sets out provisions related to the amount of such a fee.

C.S.S.B. 1004 prohibits a municipality from requiring a network provider to submit an application, obtain a permit, or pay a rate for routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; for replacing or upgrading a network node or a service pole, municipally owned utility pole, node support pole, or utility pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or for the installation, placement, maintenance, operation, or replacement of micro network nodes as defined by the bill that are strung on cables between existing service poles, municipally owned utility poles, utility poles, or node support poles, in compliance with the National Electrical Safety Code. The bill sets out provisions related to considerations and determinations under the prohibition. The bill authorizes a municipality to require advance notice of work described by the bill for which the municipality is prohibited from requiring a network provider to submit an application, obtain a permit, or pay a rate; authorizes a network provider to replace or upgrade a service pole, municipally owned utility pole, node support pole, or utility pole only with the approval of the pole's owner; and prohibits the size limitations in any event from exceeding the parameters prescribed by the bill without the municipality's approval under the bill's provisions and with the municipality acting on behalf of the state as the fiduciary trustee of public property.

C.S.S.B. 1004 requires the governing body of a municipally owned utility to allow collocation of network nodes on municipally owned utility poles on nondiscriminatory terms and conditions and under a negotiated pole attachment agreement, including any applicable permitting requirements of the municipally owned utility. The bill requires the annual pole attachment rate for the collocation of a network node supported by or installed on a municipally owned utility pole to be based on a pole attachment rate consistent with certain Utilities Code anti-discrimination provisions, applied on a per-foot basis. The bill excludes a network node supported by or installed on a municipally owned utility pole from the application of certain requirements of the bill relating to use of the public right-of-way, access and approvals, and

applications and permits that otherwise apply to the installation of a network node supported by or installed on a service pole, municipally owned utility pole, node support pole, or utility pole.

C.S.S.B. 1004 establishes that nothing in the bill's provisions governs attachment of network nodes on service poles, municipally owned utility poles, node support poles, or utility poles and other structures owned or operated by investor-owned electric utilities, electric cooperatives, telephone cooperatives, or telecommunications providers and that the bill does not confer on municipalities any new authority over those utilities, cooperatives, or providers. The bill prohibits an approval for the installation, placement, maintenance, or operation of a network node or transport facility under the bill's provisions from being construed to confer authorization to provide cable service or video service without complying with all terms of Utilities Code provisions governing state-issued cable and video franchises or to provide information service or telecommunications service, as defined by applicable federal law, in the public right-of-way. The bill prohibits a municipality from adopting or enforcing any regulations or requirements that would require a wireless service provider, or its affiliate, that holds a cable or video franchise under those Utilities Code provisions to obtain any additional authorization or to pay any fees based on the provider's provision of wireless service over its network nodes except as provided by the bill.

C.S.S.B. 1004 authorizes a municipality to continue to exercise zoning, land use, planning, and permitting authority in the municipality's boundaries, including with respect to utility poles, subject to the bill's provisions and applicable federal and state law. The bill authorizes a municipality to exercise that authority to impose police-power-based regulations for the management of the public right-of-way that apply to all persons subject to the municipality but limits a municipality's authority to impose police-power-based regulations in the management of the activities of network providers in the public right-of-way only to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public. The bill makes certain statutory indemnification provisions relating to the management of public right-of-way used by telecommunications providers in a municipality, applicable to a network provider accessing a public right-of-way under the bill's provisions.

C.S.S.B. 1004 requires a network provider, except as provided in existing state and federal law, to relocate or adjust network nodes in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way. The bill requires a network provider to operate all network nodes in accordance with all applicable laws, including regulations adopted by the Federal Communications Commission (FCC); to ensure that the operation of a network node does not cause any harmful radio frequency interference to an FCC-authorized mobile telecommunications operation of the municipality operating at the time the network node was initially installed or constructed; and, on written notice, to take all steps reasonably necessary to remedy any harmful interference.

C.S.S.B. 1004 applies the rates, terms, and conditions of agreements and ordinances entered into or enacted before the bill's effective date to all network nodes installed and operational before that date. The bill requires a municipality, for all network nodes installed and operational on or after the bill's effective date, to amend an agreement or ordinance related to the construction, collocation, operation, modification, or maintenance of network nodes to comply with the bill's provisions if a rate, term, or condition of the agreement or ordinance does not so comply. The bill requires such amended rates, terms, or conditions to take effect for those network nodes on the six-month anniversary of the bill's effective date.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1004 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subtitle A, Title 9, Local Government Code, is amended by adding Chapter 284 to read as follows:

CHAPTER 284. DEPLOYMENT OF NETWORK NODES IN PUBLIC RIGHT-OF-WAY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 284.001. FINDINGS AND POLICY.

(a) The legislature finds that:

(1) network nodes are instrumental to increasing access to advanced technology and information for the citizens of this state;

(2) this state has delegated to each municipality the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public, subject to state law;

(3) network nodes often may be deployed most effectively in the public right-of-way;

(4) network providers' access to the public right-of-way and the ability to attach network nodes to poles and structures in the public right-of-way allow network providers to densify their networks and provide next-generation services;

(5) expeditious processes and reasonable and nondiscriminatory terms, conditions, and compensation for use of the public right-of-way for network node deployments are essential to state-of-the-art wireless services;

(6) network nodes help ensure that this state remains competitive in the global economy;

(7) the timely permitting of network nodes in the public right-of-way is a matter of statewide concern and interest;

(8) requirements of this chapter regarding fees, charges, rates, and public right-of-way management, when considered with fees charged to other public right-of-way users under this code, are fair and reasonable and in compliance with 47 U.S.C. Section 253; and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle A, Title 9, Local Government Code, is amended by adding Chapter 284 to read as follows:

CHAPTER 284. DEPLOYMENT OF NETWORK NODES IN PUBLIC RIGHT-OF-WAY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 284.001. FINDINGS AND POLICY.

(a) The legislature finds that:

(1) network nodes are instrumental to increasing access to advanced technology and information for the citizens of this state and thereby further an important public policy of having reliable wireless networks and services;

(2) this state has delegated to each municipality the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public, subject to state law;

(3) network nodes often may be deployed most effectively in the public right-of-way;

(4) network providers' access to the public right-of-way and the ability to attach network nodes to poles and structures in the public right-of-way allow network providers to densify their networks and provide next-generation services;

(5) expeditious processes and reasonable and nondiscriminatory terms, conditions, and compensation for use of the public right-of-way for network node deployments are essential to state-of-the-art wireless services and thereby further an important public policy of having reliable wireless networks and services;

(6) network nodes help ensure that this state remains competitive in the global economy;

(7) the timely permitting of network nodes in the public right-of-way is a matter of statewide concern and interest;

(8) requirements of this chapter regarding fees, charges, rates, and public right-of-way management, when considered with fees charged to other public right-of-way users under this code, are fair and reasonable and in compliance with 47 U.S.C. Section 253;

(9) to the extent this state has delegated its fiduciary responsibility to municipalities as managers of a valuable public asset, the public right-of-way, this state is acting in its role as a landowner in balancing the needs of the public and the needs of the network providers by allowing access to the public right-of-way to place network nodes in the public right-of-way strictly within the terms of this chapter.

(b) It is the policy of this state to promote the adoption of and encourage competition in the provision of wireless services by reducing the barriers to entry for providers of services so that the number and types of services offered by providers continue to increase through competition.

(c) It is the policy of this state that municipalities:

(1) retain the authority to manage the public right-of-way to ensure the health, safety, and welfare of the public; and

(2) receive from network providers fair and reasonable compensation for use of the public right-of-way.

Sec. 284.002. DEFINITIONS. In this chapter:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(2) "Applicable codes" means:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and

(B) local amendments to those codes to the extent not inconsistent with this chapter.

(3) "Collocate" and "collocation" mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on

(9) to the extent this state has delegated its fiduciary responsibility to municipalities as managers of a valuable public asset, the public right-of-way, this state is acting in its role as a landowner in balancing the needs of the public and the needs of the network providers by allowing access to the public right-of-way to place network nodes in the public right-of-way strictly within the terms of this chapter; and

(10) as to each municipality, including home-rule municipalities, this state has determined that it is reasonable and necessary to allow access to the public right-of-way for the purposes of deploying network nodes to protect and safeguard the health, safety, and welfare of the public as provided by this chapter.

(b) In order to safeguard the health, safety, and welfare of the public, it is the policy of this state to promote the adoption of and encourage competition in the provision of wireless services by reducing the barriers to entry for providers of services so that the number and types of services offered by providers continue to increase through competition.

(c) It is the policy of this state, subject to state law and strictly within the requirements and limitations prescribed by this chapter, that municipalities:

(1) retain the authority to manage the public right-of-way to ensure the health, safety, and welfare of the public; and

(2) receive from network providers fair and reasonable compensation for use of the public right-of-way and for collocation on poles.

Sec. 284.002. DEFINITIONS. In this chapter:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(2) "Applicable codes" means:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and

(B) local amendments to those codes to the extent not inconsistent with this chapter.

(3) "Collocate" and "collocation" mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on

or adjacent to a pole.

(4) "Decorative pole" means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than

temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

(5) "Historic district" means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

(6) "Law" means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

(7) "Macro tower" means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Section 284.103 and that supports or is capable of supporting antennas.

(8) "Micro network node" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

(9) "Municipally owned utility pole" means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

(10) "Network node" means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

(i) equipment associated with wireless communications;

(ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and

(iii) coaxial or fiber-optic cable that is immediately adjacent to and directly

or adjacent to a pole.

(4) "Decorative pole" means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than

specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

(5) "Design district" means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

(6) "Historic district" means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

(7) "Law" means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

(8) "Macro tower" means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Section 284.103 and that supports or is capable of supporting antennas.

(9) "Micro network node" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

(10) "Municipally owned utility pole" means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

(11) "Municipal park" means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

(12) "Network node" means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

(i) equipment associated with wireless communications;

(ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and

(iii) coaxial or fiber-optic cable that is immediately adjacent to and directly

associated with a particular collocation; and
(B) does not include:
(i) an electric generator;
(ii) a pole; or
(iii) a macro tower.
(11) "Network provider" means:
(A) a wireless service provider; or
(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
(i) network nodes; or
(ii) node support poles or any other structure that supports or is capable of supporting a network node.
(12) "Node support pole" means a pole installed by a network provider for the primary purpose of supporting a network node.
(13) "Permit" means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.
(14) "Pole" means a service pole, municipally owned utility pole, node support pole, or utility pole.
(15) "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.
(16) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:
(A) a private easement; or
(B) the airwaves above a public right-of-way with regard to wireless telecommunications.
(17) "Public right-of-way management ordinance" means an ordinance that complies with Subchapter C.
(18) "Public right-of-way rate" means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.
(19) "Service pole" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and

associated with a particular collocation; and
(B) does not include:
(i) an electric generator;
(ii) a pole; or
(iii) a macro tower.
(13) "Network provider" means:
(A) a wireless service provider; or
(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
(i) network nodes; or
(ii) node support poles or any other structure that supports or is capable of supporting a network node.
(14) "Node support pole" means a pole installed by a network provider for the primary purpose of supporting a network node.
(15) "Permit" means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.
(16) "Pole" means a service pole, municipally owned utility pole, node support pole, or utility pole.
(17) "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.
(18) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:
(A) a private easement; or
(B) the airwaves above a public right-of-way with regard to wireless telecommunications.
(19) "Public right-of-way management ordinance" means an ordinance that complies with Subchapter C.
(20) "Public right-of-way rate" means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.
(21) "Service pole" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and

located in a public right-of-way, including:

(A) a pole that supports traffic control functions;

(B) a structure for signage;

(C) a pole that supports lighting, other than a decorative pole; and

(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

(20) "Transport facility" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul.

(21) "Utility pole" means a pole that provides:

(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or

(B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code.

(22) "Wireless service" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

(23) "Wireless service provider" means a person that provides wireless service to the public.

Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:

(1) each antenna that does not have exposed elements and is attached to an existing structure or pole:

(A) must be located inside an enclosure of not more than six cubic feet in volume;

(B) may not exceed a height of three feet above the existing structure or pole; and

(C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

(2) if an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:

(A) must fit within an imaginary enclosure of not more than six cubic feet;

(B) may not exceed a height of three feet above the existing structure or pole; and

(C) may not protrude from the outer

located in a public right-of-way, including:

(A) a pole that supports traffic control functions;

(B) a structure for signage;

(C) a pole that supports lighting, other than a decorative pole; and

(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

(22) "Transport facility" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

(23) "Utility pole" means a pole that provides:

(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or

(B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code.

(24) "Wireless service" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

(25) "Wireless service provider" means a person that provides wireless service to the public.

Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:

(1) each antenna that does not have exposed elements and is attached to an existing structure or pole:

(A) must be located inside an enclosure of not more than six cubic feet in volume;

(B) may not exceed a height of three feet above the existing structure or pole; and

(C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

(2) if an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:

(A) must fit within an imaginary enclosure of not more than six cubic feet;

(B) may not exceed a height of three feet above the existing structure or pole; and

(C) may not protrude from the outer

circumference of the existing structure or pole by more than two feet;

(3) the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:

(A) be more than 28 cubic feet in volume;
or

(B) protrude from the outer circumference of the existing structure or a node support pole by more than two feet;

(4) ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and

(5) pole-mounted enclosures may not be taller than five feet.

(b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):

(1) electric meters;

(2) concealment elements;

(3) telecommunications demarcation boxes;

(4) grounding equipment;

(5) power transfer switches;

(6) cut-off switches; and

(7) vertical cable runs for the connection of power and other services.

(c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

(d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.

SUBCHAPTER B. USE OF PUBLIC RIGHT-OF-WAY

Sec. 284.051. APPLICABILITY OF SUBCHAPTER.

Sec. 284.052. EXCLUSIVE USE PROHIBITED.

Sec. 284.053. ANNUAL PUBLIC RIGHT-OF-WAY RATE.

Sec. 284.054. PUBLIC RIGHT-OF-WAY RATE ADJUSTMENT.

circumference of the existing structure or pole by more than two feet;

(3) the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:

(A) be more than 28 cubic feet in volume;
or

(B) protrude from the outer circumference of the existing structure or pole by more than two feet;

(4) ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and

(5) pole-mounted enclosures may not be taller than five feet.

(b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):

(1) electric meters;

(2) concealment elements;

(3) telecommunications demarcation boxes;

(4) grounding equipment;

(5) power transfer switches;

(6) cut-off switches; and

(7) vertical cable runs for the connection of power and other services.

(c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

(d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.

SUBCHAPTER B. USE OF PUBLIC RIGHT-OF-WAY

Sec. 284.051. APPLICABILITY OF SUBCHAPTER.

Sec. 284.052. EXCLUSIVE USE PROHIBITED.

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Sec. 284.054. PUBLIC RIGHT-OF-WAY RATE ADJUSTMENT.

Sec. 284.055. USE OF PUBLIC RIGHT-OF-WAY AND APPLICABLE RATE.

Sec. 284.056. COLLOCATION OF NETWORK NODES ON SERVICE POLES. A municipality

shall allow collocation of network nodes on service poles on nondiscriminatory terms and conditions and at a rate not greater than \$20 per year per service pole.

No equivalent provision.

SUBCHAPTER C. ACCESS AND APPROVALS

Sec. 284.101. RIGHT OF ACCESS TO PUBLIC RIGHT-OF-WAY. (a) Except as specifically provided by this chapter, and subject to the requirements of this chapter and the approval of a permit application, if required, a network provider is authorized, as a permitted use, without need for a special use permit or similar zoning review and not subject to further land use approval, to do the following in the public right-of-way:

- (1) construct, modify, maintain, operate, relocate, and remove a network node or node support pole;
- (2) modify or replace a utility pole or node support pole; and
- (3) collocate on a pole.

(b) A network provider taking an action authorized by Subsection (a) is subject to applicable codes, including applicable public right-of-way management ordinances.

Sec. 284.102. GENERAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

Sec. 284.103. GENERAL LIMITATION

Sec. 284.055. USE OF PUBLIC RIGHT-OF-WAY AND APPLICABLE RATE.

Sec. 284.056. COLLOCATION OF NETWORK NODES ON SERVICE POLES. A municipality, subject to an agreement with the municipality that does not conflict with this chapter, shall allow collocation of network nodes on service poles on nondiscriminatory terms and conditions and at a rate not greater than \$20 per year per service pole.

Sec. 284.057. PROHIBITION ON OTHER COMPENSATION. A municipality may not require a network provider to pay any compensation other than the compensation authorized by this chapter for the right to use a public right-of-way for network nodes, node support poles, or transport facilities for network nodes.

SUBCHAPTER C. ACCESS AND APPROVALS

Sec. 284.101. RIGHT OF ACCESS TO PUBLIC RIGHT-OF-WAY. (a) Except as specifically provided by this chapter, and subject to the requirements of this chapter and the approval of a permit application, if required, a network provider is authorized, as a permitted use, without need for a special use permit or similar zoning review and not subject to further land use approval, to do the following in the public right-of-way:

- (1) construct, modify, maintain, operate, relocate, and remove a network node or node support pole;
- (2) modify or replace a utility pole or node support pole; and
- (3) collocate on a pole, subject to an agreement with the municipality that does not conflict with this chapter.

(b) A network provider taking an action authorized by Subsection (a) is subject to applicable codes, including applicable public right-of-way management ordinances.

Sec. 284.102. GENERAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

Sec. 284.103. GENERAL LIMITATION

ON PLACEMENT OF POLES. A network provider shall ensure that each new, modified, or replacement utility pole or node support pole installed in a public right-of-way in relation to which the network provider received approval of a permit application does not exceed the greater of:

- (1) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or
- (2) 50 feet above ground level.

Sec. 284.104. INSTALLATION IN RESIDENTIAL AREAS.

(a) A network provider may not install a new node support pole in a public right-of-way without the municipality's discretionary, nondiscriminatory, and written consent if the public right-of-way is adjacent to a street or thoroughfare that is:

- (1) not more than 50 feet wide; and
- (2) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

(b) In addition to the requirement prescribed by Subsection (a), a network provider installing a network node or node support pole in a public right-of-way described by Subsection (a) shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

Sec. 284.105. INSTALLATION ON DECORATIVE POLES OR IN HISTORIC DISTRICTS. (a) A network provider must obtain advance approval from a municipality before collocating new network nodes or installing new node support poles on decorative poles or in an area of the municipality zoned or otherwise designated as a historic district. As a condition for approval of new network nodes or new node support poles on a decorative pole or in a historic district, a municipality may require reasonable design or concealment measures for the new network nodes or new node support poles. A municipality may request that a network provider

ON PLACEMENT OF POLES. A network provider shall ensure that each new, modified, or replacement utility pole or node support pole installed in a public right-of-way in relation to which the network provider received approval of a permit application does not exceed the lesser of:

- (1) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or
- (2) 55 feet above ground level.

Sec. 284.104. INSTALLATION IN MUNICIPAL PARKS AND RESIDENTIAL AREAS.

(a) A network provider may not install a new node support pole in a public right-of-way without the municipality's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a municipal park or is adjacent to a street or thoroughfare that is:

- (1) not more than 50 feet wide; and
- (2) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

(b) In addition to the requirement prescribed by Subsection (a), a network provider installing a network node or node support pole in a public right-of-way described by Subsection (a) shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

Sec. 284.105. INSTALLATION IN HISTORIC OR DESIGN DISTRICTS. (a) A network provider must obtain advance approval from a municipality before collocating new network nodes or installing new node support poles in an area of the municipality zoned or otherwise designated as a historic district or as a design district if the district has decorative poles. As a condition for approval of new network nodes or new node support poles in a historic district or a design district with decorative poles, a municipality may require reasonable design or concealment measures for the new network nodes or new node support poles. A municipality may request that a network provider comply with the

explore the feasibility of using certain camouflage measures to improve the aesthetics of the new network nodes, new node support poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics on decorative poles or in a historic district.

(b) This section may not be construed to limit a municipality's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (16 U.S.C. Section 470 et seq.), and the regulations adopted to implement those laws.

Sec. 284.106. EQUIPMENT CABINETS.

Sec. 284.107. COMPLIANCE WITH UNDERGROUNDING REQUIREMENT.

Sec. 284.108. DESIGN MANUAL. (a) A municipality may adopt a design manual for the installation and construction of network nodes and new node support poles in the public right-of-way that includes additional installation and construction details that do not conflict with this chapter.

(b) A network provider shall comply with a design manual, if any, in place on the date a permit application is filed in relation to work for which the municipality approved the permit application. A municipality's obligations under Section 284.154 may not be tolled or extended pending the adoption or modification of a design manual.

Sec. 284.109. EXCEPTIONS.

design and aesthetic standards of the historic or design district and explore the feasibility of using certain camouflage measures to improve the aesthetics of the new network nodes, new node support poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in a historic district or on a design district's decorative poles.

(b) This section may not be construed to limit a municipality's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.

Sec. 284.106. EQUIPMENT CABINETS.

Sec. 284.107. COMPLIANCE WITH UNDERGROUNDING REQUIREMENT.

Sec. 284.108. DESIGN MANUAL. (a) A municipality may adopt a design manual for the installation and construction of network nodes and new node support poles in the public right-of-way that includes additional installation and construction details that do not conflict with this chapter. The design manual may include:

(1) a requirement that an industry standard pole load analysis be completed and submitted to the municipality indicating that the service pole to which the network node is to be attached will safely support the load; and

(2) a requirement that network node equipment placed on new and existing poles be placed more than eight feet above ground level.

(b) A network provider shall comply with a design manual, if any, in place on the date a permit application is filed in relation to work for which the municipality approved the permit application. A municipality's obligations under Section 284.154 may not be tolled or extended pending the adoption or modification of a design manual.

Sec. 284.109. EXCEPTIONS.

Sec. 284.110. DISCRIMINATION PROHIBITED.

SUBCHAPTER D. APPLICATIONS AND PERMITS

Sec. 284.151. PROHIBITION OF CERTAIN MUNICIPAL ACTIONS.

Sec. 284.152. AUTHORITY TO REQUIRE PERMIT. (a) Except as otherwise provided by this chapter, a municipality may require a network provider to obtain one or more permits to install a network node, node support pole, or transport facility in a public right-of-way if the permit:

- (1) is of general applicability to users of the public right-of-way;
- (2) does not apply exclusively to network nodes; and
- (3) is processed on nondiscriminatory terms and conditions regardless of the type of entity submitting the application for the permit.

(b) A network provider that wants to install or collocate multiple network nodes inside the territorial jurisdiction of a single municipality is entitled to file a consolidated permit application with the municipality for not more than 30 network nodes and receive a single permit for the installation or collocation of those network nodes.

Sec. 284.153. GENERAL PROCESS RELATING TO PERMIT APPLICATION.

Sec. 284.154. MUNICIPAL REVIEW PROCESS. (a) A municipality shall process each permit application on a nondiscriminatory basis.

(b) Not later than the 30th day after the date the municipality receives an application for a permit for a network node or node support pole, or the 10th day after the date the municipality receives an application for a permit for a transport facility, the municipality shall determine whether the application is complete and notify the applicant of that determination. If the municipality determines that the application is not complete, the municipality shall specifically identify the missing information.

(c) A municipality shall approve an

Sec. 284.110. DISCRIMINATION PROHIBITED.

SUBCHAPTER D. APPLICATIONS AND PERMITS

Sec. 284.151. PROHIBITION OF CERTAIN MUNICIPAL ACTIONS.

Sec. 284.152. AUTHORITY TO REQUIRE PERMIT. (a) Except as otherwise provided by this chapter, a municipality may require a network provider to obtain one or more permits to install a network node, node support pole, or transport facility in a public right-of-way if the permit:

- (1) is of general applicability to users of the public right-of-way;
- (2) does not apply exclusively to network nodes; and
- (3) is processed on nondiscriminatory terms and conditions regardless of the type of entity submitting the application for the permit.

(b) A network provider that wants to install or collocate multiple network nodes inside the territorial jurisdiction of a single municipality is entitled to file a consolidated permit application with the municipality for not more than 30 network nodes and receive permits for the installation or collocation of those network nodes.

Sec. 284.153. GENERAL PROCESS RELATING TO PERMIT APPLICATION.

Sec. 284.154. MUNICIPAL REVIEW PROCESS. (a) A municipality shall process each permit application on a nondiscriminatory basis.

(b) Not later than the 30th day after the date the municipality receives an application for a permit for a network node or node support pole, or the 10th day after the date the municipality receives an application for a permit for a transport facility, the municipality shall determine whether the application is complete and notify the applicant of that determination. If the municipality determines that the application is not complete, the municipality shall specifically identify the missing information.

(c) A municipality shall approve an

application that does not require zoning or land use approval under this chapter unless the application or the corresponding work to be performed under the permit does not comply with the municipality's applicable codes.

(d) A municipality must approve or deny an application for a node support pole not later than the 150th day after the date the municipality receives the complete application. A municipality must approve or deny an application for a network node not later than the 60th day after the date the municipality receives the complete application. A municipality must approve or deny an application for a transport facility not later than the 21st day after the date the municipality receives a complete application. An application for a permit for a node support pole, network node, or transport facility shall be deemed approved if the application is not approved or denied on or before the applicable date for approval or denial prescribed by this subsection.

(e) A municipality that denies a complete application must document the basis for the denial, including the specific applicable code provisions on which the denial was based. The municipality shall send the documentation by electronic mail to the applicant on or before the date the municipality denies the application.

(f) Not later than the 30th day after the date the municipality denies the application, the applicant may cure the deficiencies identified in the denial documentation and resubmit the application without paying an additional application fee, other than a fee for actual costs incurred by the municipality. Notwithstanding Subsection (d), the municipality shall approve or deny the revised completed application after a denial not later than the 90th day after the date the municipality receives the completed revised application. The municipality's review of the revised application is limited to the deficiencies cited in the denial documentation.

Sec. 284.155. TIME OF INSTALLATION.

(a) A network provider shall begin the installation for which a permit is granted not

application that does not require zoning or land use approval under this chapter unless the application or the corresponding work to be performed under the permit does not comply with the municipality's applicable codes or other municipal rules, regulations, or other law that is consistent with this chapter.

(d) A municipality must approve or deny an application for a node support pole not later than the 150th day after the date the municipality receives the complete application. A municipality must approve or deny an application for a network node not later than the 60th day after the date the municipality receives the complete application. A municipality must approve or deny an application for a transport facility not later than the 21st day after the date the municipality receives a complete application. An application for a permit for a node support pole, network node, or transport facility shall be deemed approved if the application is not approved or denied on or before the applicable date for approval or denial prescribed by this subsection.

(e) A municipality that denies a complete application must document the basis for the denial, including the specific applicable code provisions or other municipal rules, regulations, or other law on which the denial was based. The municipality shall send the documentation by electronic mail to the applicant on or before the date the municipality denies the application.

(f) Not later than the 30th day after the date the municipality denies the application, the applicant may cure the deficiencies identified in the denial documentation and resubmit the application without paying an additional application fee, other than a fee for actual costs incurred by the municipality. Notwithstanding Subsection (d), the municipality shall approve or deny the revised completed application after a denial not later than the 90th day after the date the municipality receives the completed revised application. The municipality's review of the revised application is limited to the deficiencies cited in the denial documentation.

Sec. 284.155. TIME OF INSTALLATION.

(a) A network provider shall begin the installation for which a permit is granted not

later than nine months after final approval and shall diligently pursue the installation to completion.

(b) Notwithstanding Subsection (a), the municipality may place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider.

Sec. 284.156. APPLICATION FEES. (a) A municipality may charge an application fee for a permit only if the municipality requires the payment of the fee for similar types of commercial development inside the municipality's territorial jurisdiction other than a type for which application or permit fees are not allowed by law.

(b) The amount of an application fee charged by a municipality may not exceed the lesser of:

(1) the actual, direct, and reasonable costs the municipality determines are incurred in granting or processing an application that are reasonably related in time to the time the costs of granting or processing an application are incurred; or

(2) \$100 per application covering up to five network nodes and \$50 for each additional network node per application.

(c) In determining for purposes of Subsection (b)(1) the amount of the actual, direct, and reasonable costs, the municipality may not:

(1) include costs incurred by the municipality in relation to third-party legal or engineering review of an application; or

(2) direct payments or reimbursement of third-party public right-of-way rates or fees charged on a contingency basis or under a result-based arrangement.

Sec. 284.157. CERTAIN WORK EXEMPTED.

SUBCHAPTER E. ACCESS TO MUNICIPALLY OWNED UTILITY POLES

SUBCHAPTER F. EFFECT ON OTHER UTILITIES AND PROVIDERS

SUBCHAPTER G. GENERAL CONDITIONS OF ACCESS

later than six months after final approval and shall diligently pursue the installation to completion.

(b) Notwithstanding Subsection (a), the municipality may place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider.

Sec. 284.156. APPLICATION FEES. (a) A municipality may charge an application fee for a permit only if the municipality requires the payment of the fee for similar types of commercial development inside the municipality's territorial jurisdiction other than a type for which application or permit fees are not allowed by law.

(b) The amount of an application fee charged by a municipality may not exceed the lesser of:

(1) the actual, direct, and reasonable costs the municipality determines are incurred in granting or processing an application that are reasonably related in time to the time the costs of granting or processing an application are incurred; or

(2) \$500 per application covering up to five network nodes, \$250 for each additional network node per application, and \$1,000 per application for each pole.

(c) In determining for purposes of Subsection (b)(1) the amount of the actual, direct, and reasonable costs, the municipality may not:

(1) include costs incurred by the municipality in relation to third-party legal or engineering review of an application; or

(2) direct payments or reimbursement of third-party public right-of-way rates or fees charged on a contingency basis or under a result-based arrangement.

Sec. 284.157. CERTAIN WORK EXEMPTED.

SUBCHAPTER E. ACCESS TO MUNICIPALLY OWNED UTILITY POLES

SUBCHAPTER F. EFFECT ON OTHER UTILITIES AND PROVIDERS

SUBCHAPTER G. GENERAL CONDITIONS OF ACCESS

SECTION 2. (a) In this section, "collocation," "network node," and "public right-of-way" have the meanings assigned by Section 284.002, Local Government Code, as added by this Act.

(b) Agreements between a municipality and a network provider for the deployment of network nodes in the public right-of-way are public/private contracts, and accordingly those contracts shall be conformed as provided by this section.

(c) Subject to Subsection (d) of this section, the rates, terms, and conditions of contracts entered into before the effective date of this Act shall apply to all network nodes installed and operational before the effective date of this Act.

(d) For all network nodes installed and operational on or after the effective date of this Act:

(1) if a rate, term, or condition of a contract related to the construction, collocation, operation, modification, or maintenance of network nodes does not comply with the requirements of Chapter 284, Local Government Code, as added by this Act, a municipality shall amend the contract to comply with the requirements of Chapter 284, Local Government Code, as added by this Act, and the amended rates, terms, or conditions shall take effect for those network nodes on the six-month anniversary of the effective date of this Act; and

(2) the rates, terms, and conditions of each contract executed on or after the effective date of this Act shall comply with the requirements of Chapter 284, Local Government Code, as added by this Act.

SECTION 3. This Act takes effect

SECTION 2. (a) In this section, "collocation," "network node," "network provider," and "public right-of-way" have the meanings assigned by Section 284.002, Local Government Code, as added by this Act.

(b) Public/private agreements between a municipality and a network provider for the deployment of network nodes in the public right-of-way on fair and reasonable terms as provided by Chapter 284, Local Government Code, as added by this Act, and corresponding ordinances governing that deployment, are necessary to protect the health, safety, and welfare of the public by facilitating robust and dependable wireless networks. Accordingly, those agreements and ordinances shall be conformed as provided by this section.

(c) Subject to Subsection (d) of this section, the rates, terms, and conditions of agreements and ordinances entered into or enacted before the effective date of this Act shall apply to all network nodes installed and operational before the effective date of this Act.

(d) For all network nodes installed and operational on or after the effective date of this Act:

(1) if a rate, term, or condition of an agreement or ordinance related to the construction, collocation, operation, modification, or maintenance of network nodes does not comply with the requirements of Chapter 284, Local Government Code, as added by this Act, a municipality shall amend the agreement or ordinance to comply with the requirements of Chapter 284, Local Government Code, as added by this Act, and the amended rates, terms, or conditions shall take effect for those network nodes on the six-month anniversary of the effective date of this Act; and

(2) the rates, terms, and conditions of each agreement executed, and each ordinance enacted, on or after the effective date of this Act shall comply with the requirements of Chapter 284, Local Government Code, as added by this Act.

SECTION 3. This Act takes effect

immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

September 1, 2017.