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OPEN MEETING COVER SHEET

MEETING DATES: July 25, 2002

DATE DELIVERED: July 18, 2002

AGENDA ITEM NO.: 28

CAPTION: Project No. 25450 – Rulemaking to Address the Redefinition of Access Lines and Other Related Outstanding Access Line Implementation Issues

ACTION REQUESTED: Discussion and possible action; Staff recommendation

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TO: Chairman Rebecca Klein
Commissioner Brett Perlman

FROM : Hayden Childs, Analyst, Telecommunications Division
Michelle Lingo, Attorney, Policy Development Division *ML*

DATE: July 18, 2002

RE: Recommendation: no rule amendment justified; Project No. 25450
*Rulemaking to Address the Redefinition of "Access Line" and Other
Outstanding Access Line Implementation Issues*

Texas Local Government Code, § 283.003 requires that by September 1, 2002, the Commission "determine whether changes in technology, facilities, or competitive or market conditions justify a modification in the commission-established categories of access lines, or if necessary, the adoption of a definition of 'access line'". The above referenced and titled project was established to conduct this review. P.U.C. SUBST. R. 26.461 provides that the definition of "access line" is as defined in TEXAS LOCAL GOV'T CODE § 283.002(1). The three commission-established categories of access lines are provided under P.U.C. SUBST. R. 26.461. In the future, the Commission is required by statute to make this determination at least once every three years. However, the Commission is not precluded from addressing this matter sooner.

Staff solicited written comments and conducted a workshop on April 9, 2002. Stakeholders were also given another opportunity to submit comments to questions by June 21, 2002. Having considered the issues, law, Commission rules, current state of technology and market conditions, stakeholders' positions and comments, Staff recommends that the Commission find that no amendment is justified. Accordingly, staff recommends that Project No. 25450 be closed.

When first implementing Chapter 283 of the Local Government Code, the Commission recognized two critical factors: 1) rapid technological developments could outpace the Commission's ability to appropriately set capacity as a dividing line between the categories; and 2) the raised potential for significant additional costs to be placed upon the deployment of advanced high-speed technology by municipalities might create a disincentive against the development and use of such advanced technology. The Commission also considered, at length, the issue of changes to the CTPs' existing information and billing systems and considered the potential impact and changes needed for composition of each category. The Commission adopted a three-category system that would be easily recognized and understood, that would closely match industry's existing billing systems, and that would avoid potential disincentives against the use of new technology. The Commission

specifically chose to avoid the use of technology or technological changes as a dividing line between categories. In addition, the Commission acknowledged that the three-category system would give municipalities the opportunity to fairly allocate charges between the different categories of access lines. The Commission has found no change in technology, facilities, or competitive or market conditions that justify a modification to the categories of access lines or to the definition of “access line.”

During the proceeding, Staff identified issues with the definition of “transmission path” that may require rule amendment. Staff requests permission to open a different project to consider amendment language to P.U.C. SUBST. R. 26.465.

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