

APPENDIX A
City of Sugar Land
Chapter 283 ROW Form

Right of access to use the City’s public rights-of-way under Tex. Loc. Gov’t. Code, Chapter 283, (Chapter 283) applies to wireline Public Utility Commission of Texas (PUC) certificated telecommunications providers (CTP).

A CTP is defined in Chapter 283, §283.002 as a person who has been issued a certificate by the Texas Public Utility Commission to offer local exchange telephone service or a person who provides voice service.

- A “local telephone exchange” service is defined in Chapter 283, §283.002 and in Tex. Util. Code, §51.002 as telecommunications service provided within an exchange to establish connections between customer *premises* within the exchange.¹
- “Voice service” is defined in Chapter 283, §283.002 as voice communication services provided through wireline facilities located at least part in the ROW. The term does not include voice service provided by a commercial mobile service provider as defined by 47 USC § 332.

A CTP is required to count and report its “access lines”, and compensate each municipality in accordance with the access lines rates as adopted by the PUC, as revised annually by an inflation factor.

“Access line” is defined by Chapter 283, §283.002 (1), and in PUC Rules, as being each switched transmission path “*physically* within the public rights-of-way”, each private line termination point of a non-switched circuit “*located within* the public rights-of-way”, resulting in three categories of access lines: residential switched, business switched (including PBX type services) and private/dedicated point-to-point data services, that terminate at a customer’s premises, i.e., a retail end-user (and excluding interoffice transport lines that do not terminate at an end-user’s premises, as described in PUC Rules, P.U.C. Subst. R. 26.461(c)(1)(B), but are used to provide landline/wireline local exchange telephone services or other Chapter 283 defined access line services, P.U.C. Subst. R. 26.461(d), of “voice”, data, or private landline/wireline services).²

Chapter 283, and the PUC Rule definitions describe a landline based telecommunications service that has *physical* facilities *within* the rights-of-ways extending to the retail end users.

If a wireline CTP complies with Chapter 283, i.e. files quarterly access line reports to the PUC and compensates each municipality access line fees based on those reports, it is allowed to place its facilities within the local public rights-of-way, although (no-cost) permits can still be required.³

¹ See also, PUC Subst. Rule §26.5. Definitions (13) Basic local telecommunications service; (134) Local exchange telephone service or local exchange service.

² PUC Subst. Rule §26.461 generally and subsection (d) on the three categories of access lines; See also, PUC Subst. Rule §26.465 (c) definitions of a “transmission path” and subsection (d) methodology for counting access lines.

³ Chapter 283, § 283.052. EFFECT OF PAYMENT OF RIGHT-OF-WAY FEES TO MUNICIPALITY. (a) a [CTP] that complies with this chapter and commission orders issued under this chapter: (1) may erect poles or construct conduit, cable, switches, and related appurtenances and facilities and excavate within a public right-of-way to provide telecommunications service; and (2) is not subject to municipal franchise requirements....”; Chapter 283, § 283.056 (b) no cost construction permits, consistent with other like permits, may be required by a city.

The CTP Applicant's completion of this Chapter 283 ROW Form, will provide guidance to the City on ensuring that only qualified CTP entities have the benefit of Chapter 283 rights-of-way access, as narrowly allowed by Chapter 283; in other words, the completion of this form is intended to elicit the minimum amount of information from the CTP Applicant in order to assist the City in verifying that the CTP is qualified under Chapter 283 in its request to have access to use the public rights-of-way as allowed by Chapter 283, and that the CTP Applicant fully understands and agrees to its responsibilities and obligations of counting, reporting and compensating the City based on its access lines within the City's public-rights-of-way, all in accordance with Chapter 283, PUC Orders and PUC Rules.

Completed Chapter ROW Form is to be submitted to:

City of Sugar Land Public Works Department
City Contact: Eric Oscarson
Address: 111 Gillingham Lane, Sugar Land, Texas 77478
Email: row@sugarlandtx.gov
Telephone: (281) 275-2450

TERMS USED IN THIS CHAPTER 283 ROW FORM:

“CTP Applicant” –This is the person or entity that will actually own its facilities within the public rights-of-way, with the permit in the CTP Applicant's name.

“CTP Applicant's Agent” – CTP Applicant's Agent is the agent for the CTP Applicant in connection with this completing this Chapter 283 ROW Form, with written authorization to sign and submit the Chapter 283 ROW Form on the CTP Applicant's behalf.

“CTP” - Certificated telecommunication provider, as defined in Chapter 283 and PUC Rules.

“Chapter 283”-Chapter 283, Tex. Loc. Gov. Code.

“Chapter 283 ROW Form”-This form.

“Permit Application” means the City of Sugar Land Right-of-Way Work Permit Application.

“PUC Rules” –Public Utility Commission of Texas Rules pertaining to Chapter 283, P.U.C. SUBST. R. § 26.461 to § 26.469.

“Public Rights-of-Way” as defined in Chapter 283 and PUC Rules.

SECTION 1.00: CTP APPLICANT INFORMATION

1.1: CTP Information.

1.1.1:CTP Certificate number and the most recent PUC Docket No. filing pertaining to the initial issuance or renewal of the PUC Certificate. Attach a copy of the CTP certificate, annotated with the most recent PUC Dkt. No. on issuance or renewal. Designate this as “Exhibit 1.01.1, “CTP Certificate”.

1.1.2: **If CTP Applicant asserts legal authority other than or in addition to Chapter 283** that may allow placement of facilities and use of the public rights-of-way, describe in detail that governmental authority, statutory authority, or other legal authority that granted the CTP Applicant the privilege to use the public rights-of-way for placement of its facilities. *Designate this as "Exhibit 1.02.2, Permission to use ROW other than Chapter 283"*.

1.2 : Representations on submitting the Chapter 283 ROW Form Application: (Section must be initialed to constitute a completed application, if inapplicable, add to the initials "N/A" and explain why N/A in separate answer attached to the application.)

1.3 The CTP Applicant agrees and understands that: (All section must be initialed to constitute a completed Chapter 283 ROW Form.)

1.3.1. _____(Initial indicating agreement) Chapter 283 municipal right-of-way access line fee compensation methodology applies equally to a CTP that owns facilities or provides facilities or capacity to another CTP in the rights-of-way of municipalities as is the "underlying CTP, and to the CTP to whom an underlying CTP has resold, leased, or is using another CTPs' facilities or is otherwise provided access lines that extend to the end-use customer's premises, as the "reseller CTP", as required by PUC Rules.⁵

1.3.2 _____ (Initial indicating agreement) That the CTP Applicant's current billing system is in a format to strictly comply with PUC rules that require the CTP billing system to "be sufficient to substantiate compliance with the access line reporting requirements..." and requires CTP records to be maintained "in a manner which allows for easy identification and review".⁶

1.3.3 _____ (Initial indicating agreement) That the CTP Applicant has, or will prior to the issuance of a permit(s), establish a Municipal Access Line Reporting System (MARS) account on the PUC website, as required by PUC Rules.⁷

1.3.4. _____ (Initial indicating agreement) That the CTP Applicant will file quarterly access line reports, whether they have access lines or not, as required by PUC Rules.⁸

1.3.5. _____ (Initial indicating agreement) That the CTP Applicant will provide "adequate proof" documents to the City as to the CTP that is reporting and paying its access line fees if the CTP Applicant is not filing reports or paying access line fees directly, as required by PUC Rules.⁹

⁵ Chapter 283, § 283.051 (a) [all CTPs required to pay access line fees], 283.055 (i), and (k) underlying CTPs need not report or pay if reseller CTPs furnished "adequate proof" they would report and pay.

P.U.C. Subst. R. 26.467 (k) (4) "Adequate proof of reporting and compensation responsibilities." "(A) Definition of 'underlying CTP' and 'reselling CTP.' (i) An underlying CTP is a CTP that owns facilities or provides facilities or capacity to another CTP in the rights-of-way of municipalities. (ii) A reselling CTP is a CTP to whom an underlying CTP resold, leased or otherwise provided access lines that extend to the end-use customer's premises."

⁶ P.U.C. Subst. R. §26.467(k) (2) requires that the CTP billing system "must be sufficient to substantiate compliance with the access line reporting requirements..." and P.U.C. Subst. R. §26.465(i) requires CTP records are to be maintained "in a manner which allows for easy identification and review".

⁷ P.U.C. SUBST. R. §26.468.

⁸ P.U.C. SUBST. R. §26.467 (k) (3) and 26.468 (d) for filed quarterly reports, even if no access lines.

⁹ A CTP, whether reselling or underlying, have an obligation pursuant to P.U.C. SUBST. R. §26.467(k) (4) and P.U.C. SUBST. R. § 26.467 (l) to obtain or provide adequate proof in the form of a written agreement that specifically cites, and assigns responsibility for compliance, i.e., the reporting and compensation requirements, with Chapter 283.

SECTION 2.00: AFFIRMATION AS TO TYPE OF TELECOMMUNICATIONS WIRELINE FACILITIES.

(All sections must be initialed to constitute a completed Chapter 283 ROW Form. If inapplicable, add to the initials “N/A”, and explain why N/A in separate answer attached to this Chapter 283 ROW Form.

2.1. _____ (Initial indicating agreement) CTP Applicant affirms that the facilities are being installed to provide landline/wireline local exchange telephone services or other Chapter 283 defined access line services, P.U.C. Subst. R. 26.461 (c) (1) B), of “voice”, data, or private landline/wireline services.

2.2: _____ (Initial indicating agreement) CTP Applicant affirms that some of the facilities being installed may be “interoffice transport” lines, lines that do not terminate at an end-user’s premises, as described in PUC Rules, P.U.C. Subst. R. 26.461 (c) (1) (B), which lines are used to connect landline/wireline local exchange telephone services equipment or equipment for other Chapter 283 defined access line services, P.U.C. Subst. R. 26.461 (d), of “voice”, data, or private landline/wireline services.¹⁰

2.3: _____ (Initial indicating agreement) CTP Applicant affirms that some facilities that may be installed as “interoffice” back-haul¹⁰ used to connect landline/wireline local exchange telephone services equipment or equipment for other Chapter 283 defined access line services, P.U.C. Subst. R. 26.461 (d), of “voice”, data, or private landline/wireline services.

2.4: Yes __ No __ (Initial indicating agreement) CTP Applicant affirms that the facilities and equipment being installed are owned by the applicant.

2.5 Yes__ No__ (Initial indicating agreement) CTP Applicant affirms that the facilities and equipment being installed are not and or will not be owned by an entity other than the applicant.

NO FACILITIES AND OR EQUIPMENT TO BE INSTALLED IN THE PUBLIC RIGHTS-OF-WAY THAT ARE OR WILL BE OWNED BY ENTITIES OTHER THAN THE APPLICANT MAY BE INSTALLED UNDER THE APPLICANT’S PERMIT.

¹⁰ P.U.C. Subst. R. 26.465 (f) (2) and (3). See also, 1999 PUC Order, at 52-53 “...replacing the term ‘transmission facilities’ with the term ‘back-haul’ facilities to provide clarity...”.