

Amend CSHB 789 by striking SECTION 32 of the bill (page 29, lines 1-13) and substituting the following:

SECTION 32. Section 54.202, Utilities Code, is amended to read as follows:

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

(1) a service for which a new certificate [~~of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority~~] is required; [~~or~~]

(2) a service as a network provider;

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

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

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

(1) offering a broadband network that provides Internet access in a municipally owned building, library, or public park;

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

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

(A) a bill paying service;

(B) an emergency service;

(C) a constituent service;

(D) utility meter reading; and

(E) permitting; and

(4) providing access to its transmission and distribution facilities under a contract with another entity that allows the entity to offer the municipality's customers high speed data services using broadband over power line technology if:

(A) the municipality has a population of not more than 30,000; and

(B) the contract is entered into on or before January 1, 2006.

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

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

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

(3) the authority of a municipality or municipally
~~with:~~

~~[(A) another customer's premises within the exchange, or~~

~~[(B) a long distance provider that serves the exchange.~~

~~[(b) Subsection (a) applies to a service offered either directly or indirectly through a telecommunications provider].~~