

BILL ANALYSIS

Senate Research Center

S.B. 2399
By: Schwertner
Business & Commerce
5/31/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2399 clarifies that the Public Utility Commission of Texas (PUC) may continue to grant service provider certificate of operating authority (SPCOA) certificates to any type of carrier, regardless of the technology over which they provide service.

Voice over Internet Protocol (VoIP) is a ubiquitous technology used by virtually every provider (incumbent LECs, competitive carriers, cable providers) throughout the telecommunications and broadband marketplace because it lowers costs and provides a more robust, reliable network.

Recently, the PUC's general counsel took a new position in a proceeding that the PUC does not have jurisdiction to grant SPCOA certificates to VoIP providers. This position is contrary to extensive PUC precedent allowing VoIP providers to obtain these certificates. The PUC has been granting these certificates to VoIP providers for nearly two decades to dozens of carriers.

The purpose of S.B. 2399 is to clarify that the PUC should continue to grant certificates without regard to technology. This legislation does not change the scope of regulation or extend PUC regulation to any VoIP provider and upholds all the underlying law on the issue.

(Original Author's/Sponsor's Statement of Intent)

S.B. 2399 amends current law relating to the authority of the Public Utility Commission of Texas to regulate Voice over Internet Protocol services.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 52.002(d), Utilities Code, as follows:

(d) Prohibits a department, agency, or political subdivision of this state, notwithstanding any other law, from by rule, order, or other means directly or indirectly regulating rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol services or other Internet Protocol enabled services. Provides that this subsection does not:

(1)-(7) makes no changes to these subdivisions;

(8)-(9) makes nonsubstantive changes to these subdivisions; or

(10) limit any Public Utility Commission of Texas (PUC) authority over the grant of any certificate to a Voice over Internet Protocol provider under Subchapter C (Certificate of Operating Authority) or D (Service Provider Certificate of Operating Authority), Chapter 54.

SECTION 2. Amends Section 54.154(a), Utilities Code, to authorize the PUC to grant a certificate to encourage an innovative, competitive, and entrepreneurial business to provide telecommunications or Voice over Internet Protocol services.

SECTION 3. Amends Section 54.155, Utilities Code, by adding Subsection (c) to prohibit a certificate granted under Section 54.155 (Grant or Denial of Certificate) to a Voice over Internet Protocol provider from being construed to expand the authority or jurisdiction of the PUC over Voice over Internet Protocol service.

SECTION 4. Effective date: September 1, 2023.