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## TEXAS BOARD OF PROFESSIONAL ENGINEERS

June 7, 2005

Mr. David Turner, P.E.  
Mail stop BTC-201  
LCRA  
P.O. Box 220  
Austin, TX 78767

Dear Mr. Turner:

RE: Policy Advisory Opinion Request for Custom Designed Poles

Thank you for your emails dated April 11 and 13, 2005 requesting a policy advisory opinion on the above-referenced issue. We understand that you have some concern regarding the procedures being used to obtain utility line poles. Specifically you ask: 1) should public and private utilities require manufacturers to be registered firms who engage licensed engineers to perform the work; and, 2) should public utilities like LCRA and municipals treat acquisition of these custom-designed poles as an engineering service? A tracking number has been assigned for this request and it is Engineering Advisory Opinion Request (EAOR) #0013. In accordance with Chapter 1001 of the Texas Occupations Code, The Texas Engineering Practice Act and Rules Concerning the Practice of Engineering and Professional Engineering Licensure (Act), and as explained below, it has been determined that your request is answered by existing law.

### *DISCUSSION*

The Act provides for some exemptions that may apply to your situation (bold added for emphasis):

§ 1001.057 (a) and (c) only. Employee of Private Corporation or Business Entity

**(a) This chapter shall not be construed to apply to the activities of a private corporation or other business entity, or the activities of the fulltime employees or other personnel under the direct supervision and control of the business entity, on or in connection with:**

(1) reasonable modifications to existing buildings, facilities, or other fixtures to real property not accessible to the general public and which are owned, leased, or otherwise occupied by the entity; or

**(2) activities related only to the research, development, design, fabrication, production, assembly, integration, or service of products manufactured by the entity.**

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**(c) This exemption does not prohibit:**

- (1) a licensed professional engineer who intends to incorporate manufactured products into a fixed work, system, or facility that is being designed by the licensee on public property or the property of others from requiring the manufacturer to have plans or specifications signed and sealed by a licensed professional engineer; or**
- (2) the Board from requiring, by rule, that certain manufactured products delivered to or used by the public must be designed and sealed by a licensed professional engineer, if necessary to protect the public health, safety, and welfare.**

***CONCLUSION***

The Texas Board of Professional Engineers (Board) considers the manufacturing of poles that are built to specifications provided by the purchaser to be exempt from the Act. The load information is a product specification used by the manufacturer to produce the utility pole that will meet those specifications. The purchaser is obtaining the pole to be incorporated into a complete utility system that is designed by professional engineers.

Based on the above-cited law regarding engineering, and exemptions, the Board has determined that your question is addressed to the degree necessary to clearly determine that the pole is considered a manufactured product incorporated into a system designed by a professional engineer. Specifically answering your questions, this agency has determined that: 1) public and private utilities may use manufacturers that are not registered firms and which do not employ Texas professional engineers and 2) the acquisition of these poles does not require engineering services, although an entity could make that their own requirement.

If you have any further questions, please contact Wesley Smith, P.E., at 512-440-7723.

Sincerely,



Dale Beebe Farrow, P.E.

Executive Director

Enclosures: Mr. Turner's email

DBF:JWS:dpt

Cc: Wesley Smith, P. E., Engineering Specialist  
C.W. Clark, P. E., Director of Compliance & Enforcement