

MINUTES
POLICY ADVISORY OPINION COMMITTEE MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS
1917 IH-35 SOUTH, BOARD ROOM, AUSTIN, TEXAS
April 14, 2015— 11:00 AM

CALL TO ORDER. Carry Baker, Chair, called the Texas Board of Professional Engineers Policy Advisory Opinion Committee Meeting to order at 11:00 am on April 14, 2015, at the Texas Board of Professional Engineers, 1917 South Interstate 35, Austin, TX. (NOTE: all votes are unanimous unless noted.)

1. Roll call and welcome visitors.

Carry A. Baker, J.D.	Chair
Sina Nejad, P.E., P. Eng.	Member (Excused Absence)
Edward Summers, Ph.D.	Member
Kyle Womack, P.E.	Member
Lamberto "Bobby" Ballí, P.E.	Alternate/Board Liaison for PAO #37

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board.

The following staff members were present:

Lance Kinney, P.E.	Executive Director
David Howell, P.E.	Deputy Executive Director
C.W. Clark, P.E.	Director of Compliance & Enforcement
Dewey Helmcamp, J.D.	Staff Attorney
Morgen Cuming, J.D.	Staff Attorney
Angelena Martinez	Program Specialist
Dorothy Gonzales	Executive Assistant

Visitors. Eleanor D'Ambrosio, General Counsel, Office of the Attorney General; John Soward, Oncor; Charles Brower, P.E., AEP Texas; Jeffrey Knights, ATMOS Energy; Sandra Khary; Ruben Vasquez; Daniel King; Alan Gibbs, P.E., City of College Station; Lesli Ward, AT&T; Bob Digneo, AT&T; Jennifer McEwin, Ph.D., Texas Society of Professional Engineers (TSPE); Trish Smith, Executive Director, TSPE; Weldon Grey, TSTCI; Rhonda Welch, P.E., CenterPoint Energy; Milan Urukalo, ENCO; Keith Wall, CenterPoint Energy; Peyton McKnight, American Council for Engineering Companies (ACEC); Sean Ray, City of College Station; Stephen Maldonado, Jr. P.E., City of College Station; Jeffrey Broocks, AT&T; Lucas Meyers, Texas Cable Association; Keri Burchard-Juarez, P.E., City of Austin.

- 2. Public comment.** Chair announced that all public comment regarding Policy Advisory #37 will be taken at the time of the discussion.

DISCUSS AND POSSIBLY ACT ON THE FOLLOWING ITEMS (AGENDA ITEMS 3-4):

3. Requests for Reconsideration of Policy Advisory Opinion #37 - Interpretation of Utility and Telephone Company Exemptions.

The following attendees made public comment regarding PAO#37:

Mr. Weldon R. Gray, CPA. Mr. Gray stated that he represents 35 of the small and rural cooperative and independent telephone companies in Texas. Mr. Gray shared that the cooperatives and companies he works with have been providing service for decades, and are not aware of any problems. He asked the Board to rescind Policy Advisory Opinion #37.

Bob Digneo, AT&T representative. Mr. Digneo commented that AT&T is not aware of any major structural problems in regards to their facilities. He stated that the existing exemption of telephony in the TEPA allows them to provide services to their customers and has worked well for them. Engineers working for AT&T are not PEs but are very qualified to do this work. He asked what problems have arisen to prompt Policy Advisory Opinion #37. He stated that the impact of the advisory opinion to AT&T is time and cost. Mr. Digneo commented that such change should be in legislation, and not by the Board. He thanked the Board for their quick action and consideration of their request.

Alan Gibbs, P.E., City Engineer for the City of College Station and City of Bryan representative. Mr. Gibbs commented that on behalf of both cities, they support the conclusion of PAO #37. He shared and described city requirements of a PE and limited oversight of utility companies working on public-right-of-way, and easements. He also shared concerns of damage in urban areas that could occur without a P.E. oversight.

Stephen Maldonado, Jr. P.E., City of College Station. Mr. Maldonado shared with the board the possibilities of damage done to public-right-of-way without the oversight of a P.E. He shared activities that he has encountered with some utility companies digging where water lines and/or sewer lines are located, and they have no knowledge of what is in the area they are digging. This poses a threat to contamination of water lines or damaging sewer lines.

Keri Juarez, P.E., City of Austin. Ms. Juarez shared that the City of Austin is strongly in support PAO #37. Maintaining the cities authority with protecting public-right-of-way is of great service to assist them in protecting the citizens with safe driving surfaces and the kind of water services customers expect from the cities, and not having a P.E. working on public-right-away is a concern.

John Soward, Oncor Electric Delivery. Oncor is in support of revoking PAO #37. Oncor's concerns were with the FAQs published by the Board. They felt this caused confusion among city enforcement roles. Most of the designs on the distribution side of the business are not completed by professional engineers. He stated that Oncor has key positions that are supervised by licensed engineers that follow the constructions they produce. He stated that the impact of PAO #37 on Oncor will be significant.

Tab Urbantke, Counsel for Oncor Electric Delivery, Vinson & Elkins, LLP. He stated that he appreciates the Board taking the time to consider this issue and that he is in support of reconsideration of PAO #37. He would like to encourage stakeholder meetings as well.

Charles R. Brower, III, P.E., AEP Texas. Design organizations at AEP Texas have licensed professional engineers on staff and while about 86% of their employees are not licensed professional engineers, they design based on standards and report to licensed engineers that oversee their work. They would have shut down their operations with what the enforcement of PAO #37.

- Discuss and possibly act upon requests for reconsideration of Policy Advisory #37
(Possible Motion)
- Discuss and possibly recommend suspension or revocation of Policy Advisory #37
(Possible Motion)

It was MOVED/SECONDED (Summers/Womack) to recommend to the Board at the Quarterly Board meeting on May 21, 2015, to reconsider PAO #37, and to suspend any enforcement or actions taken until the Board makes a final decision. A vote was taken and the MOTION PASSED.

4. **ADJOURN.**

It was MOVED/SECONDED (Summers/Ballí) to adjourn the committee meeting at 12:08 pm. A vote was taken and the MOTION PASSED.

Date minutes approved by Committee as submitted:	May 21, 2015
Date Board accepted minutes:	May 21, 2015