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EXECUTIVE DIRECTOR

TEXAS BOARD OF PROFESSIONAL ENGINEERS

August 18, 2005

Mr. Bernard F. Bareis, P.E.
724 Sunkist Lane
Plano, TX 75025-3212

Dear Mr. Bareis:

RE: Policy Advisory Opinion Request #14 - Regarding Professional Engineering Requirements for Telecommunication/Data Communication Design Engineering

Your request dated May 4, 2005, for a policy advisory opinion regarding the above subject has been reviewed. Specifically, you asked if persons involved in design of electrical and/or software for data/communication equipment which affects the public need to be licensed engineers, and if the companies involved in this work need to be registered firms.

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 Board Rule §131.107 (d), and as explained below, it has been determined that your request is answered by existing law and by the Board's recently established policy which defines how an engineer can indicate his licensing authority. Specifically, §131.107 (d) states: "If the executive director determines the Board has no jurisdiction or the request can be answered by reference to a statute, Board rule, or previous opinion, the executive director shall prepare a written response for the policy advisory opinion committee addressed to the person making the request that cites the jurisdictional authority, the language of the statute or rule, or the prior determination."

The request that you have submitted may be answered with a review of existing statute. There are certain exemptions provided under current law and one of those exemptions directly addresses your request. Please review the following excerpt from the Act:

§ 1001.061. Telephone Companies

(a) An operating telephone company, an affiliate of the company, or an employee of the company or affiliate is exempt from this chapter with respect to any plan, design, specification, or service that relates strictly to the science and art of telephony.

(b) This exemption includes the use of a job title or personnel classification by a person included under Subsection (a) if the person does not use:

- (1) the title or classification in connection with an offer to the public to perform engineering services; and
- (2) a name, title, or word that tends to convey the impression that a person not licensed under this chapter is offering to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

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Therefore, the firm and or person working on projects for telephone or affiliated companies would be exempt from this chapter. Based on the cited law regarding engineering exemptions, the request is answered in the existing statute and can only be addressed differently through a legislative change.

In addition, other parts of your request address some of the other statutes in the Act. The statutory citations that concern you were created by the Texas Legislature and will require new legislation to be passed in order to change them. The Board does have the ability to enact rules to further clarify the statute and has developed a number of rules that specifically address items that may not be completely explained in the statute. However, in the case of the telecommunications and data communication industries, the statute clearly identifies these as exempt from the Act. The telephone companies and their affiliates are not required to have professional engineers, and they are not required to be registered as firms with the Board.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Beebe Farrow", with a long horizontal line extending to the right.

Dale Beebe Farrow, P.E.
Executive Director

DBF:JWS:dpt