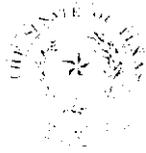


**RQ-886**

FILE # ML-38811-96

I.D. # 38811



Senator David Sibley  
Chairman  
Senator Peggy Rosson  
Vice Chair  
Senator Rodney Ellis  
Senator Chris Harris  
Senator Tom Haywood

**The Texas Senate**  
**Economic Development Committee**

Senator Don Henderson  
Senator John Leedom  
Senator Eddie Lucio  
Senator Frank Madla  
Senator Jerry Patterson  
Senator Florence Shapiro

May 13, 1996

**RECEIVED**

The Honorable Dan Morales  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711

MAY 13 1996  
FIRST ASSISTANT ATTORNEY GENERAL  
ATTORNEY GENERAL'S OFFICE

Re: Whether a proposed contract by the City of San Antonio to license fiber optic facilities and services with a private telecommunications provider contravenes section 3.251(d) of the Public Utilities Regulatory Act, V.T.C.S. art. 1446-c-o (RQ-865)

Dear General Morales:

On January 12, 1996, I wrote to you regarding the above question seeking an Attorney General's Opinion regarding whether the City of San Antonio's Agreement for the License of Fiber Optic Facilities and Services with ICG violated §3.251(d) of the Public Utility Regulatory Act of 1995. You responded on February 16, advising that it was the policy of your office to refrain from issuing opinions on questions that were the subject of pending litigation, referencing ICG Access Services, Inc. v. SBC Communications, Inc., Nol SA-95-1233 (W.D. Tex. filed Dec. 13, 1995).

This is to advise that Judge Garcia has on May 8th dismissed ICG's Complaint for failure to state a claim upon which relief can be granted. I enclose a copy of his order. I request that you now issue a written opinion on the question presented.

Very truly yours,

A handwritten signature in cursive script that reads "David Sibley".  
David Sibley  
Chairman

Enclosure

cc: Mayor Bill Thornton, CPS Board Chairman  
Lieutenant Governor Bob Bullock  
Members, Senate Economic Development Committee  
Senator Jeff Wentworth  
Senator Frank L. Madla  
Senator Gregory Luna  
Senator Judith Zaffirini

