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Tracy O. King  
State Representative

**RQ-0443-KP**  
**FILE# ML-49064-21**  
**I.D.# 49064**

December 17, 2021

The Honorable Ken Paxton  
Attorney General of Texas  
Attention: Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

Dear General Paxton:

We respectfully request your opinion as to whether the Lone Star Infrastructure Protection Act (the “Act”) prohibits a business or government entity from entering into an agreement to provide utility services to a factory owned by a company that meets one of the criteria under the Act, including the construction and maintenance of new infrastructure to provide such services.

### **Background**

In 2021, the Texas Legislature passed Senate Bill 2116, the Lone Star Infrastructure Protection Act, which “prohibit[s] business and governmental entities from entering into agreements that grant “direct or remote access to or control of critical infrastructure” to companies with specified ties to China, Iran, North Korea, Russia, and any other country designated by the governor. The Act also amends Section 2274.0102 to include identical language as applies to governmental entities.

The Act’s description of contracts that are prohibited is drafted to include any agreement: 1) “relating to critical infrastructure”; 2) in which a subject company would be granted “direct or remote access to or control of critical infrastructure.” The Act defines the term “critical infrastructure” to include: “a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.” Tex. Bus. & Com. Code §§ 113.001(2) and 2274.0101(2).

### **Utility Services**

Companies in Texas need to contract for utility services, including electricity, sewer, waste treatment, internet, telecommunication, culinary water and water treatment services. Businesses in the state are concerned that to construe the language “direct or remote access to or control of”

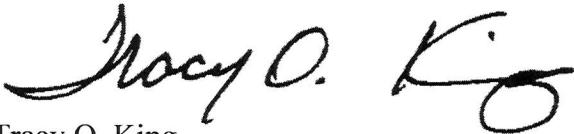
to mean that customers of utility services may have access to or control of critical infrastructure will lead to the absurd, and likely unintended, result of requiring all relevant business and government entities in Texas to immediately cut off utility services to any company from the designated countries, and effectively making it impossible for any company from the designated countries to conduct or continue any business in Texas.

### **Request**

Therefore, we request your opinion as to whether an agreement for a business or government entity to provide industrial-level electricity, sewer, waste treatment, internet, telecommunication, culinary water or water treatment services to a factory owned by a company that meets one of the criteria listed in Tex. Bus & Com. Code § 113.002(a)(2) or 2274.0102(a)(2), including the construction and maintenance of new infrastructure such as additional power lines, water pipes, sewer pipes and other infrastructure to provide such services, constitutes an agreement that grants the “direct or remote access to or control of critical infrastructure in this state” that is prohibited by Tex. Bus & Com. Code § 113.002(a)(1) or §2274.0102(a)(1).

I appreciate your time and consideration of this request. Because your timely response would advance needed economic development to the State of Texas, we respectfully request that your response be expedited. Please contact me if you need any additional information or if my office can be of any assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "Tracy O. King". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Tracy O. King