

The Public Utility Commission of Texas (the commission) adopts amendments to §26.21 relating to General Provisions of Customer Service and Protection Rules; §26.23 relating to Refusal of Service; §26.24 relating to Credit Requirements and Deposits; §26.27 relating to Bill Payment and Adjustments; §26.28 relating to Suspension or Disconnection of Service; and §26.29 relating to Prepaid Local Telephone Service (PLTS) with changes to the proposed text as published in the September 10, 1999 *Texas Register* (24 TexReg 7110). The amendments are necessary to implement provisions of Senate Bill 86 (SB 86), Act of May 30, 1999, 76th Legislature, Regular Session, chapter 1579, 1999 Texas Session Law Service 5421, 5429 (Vernon) (to be codified as an amendment to the Public Utility Regulatory Act (PURA), Texas Utilities Code Annotated, §55.012); and Senate Bill 560 (SB 560), Act of May 30, 1999, 76th Legislature, Regular Session, chapter 1212, 1999 Texas Session Law Service 4210, 4219 (Vernon) (to be codified as an amendment to PURA, Texas Utilities Code Annotated §55.013) relating to *Limitations on Discontinuance of Basic Local Telecommunications Service*. These amendments were adopted under Project Number 21030.

PURA §55.012 and §55.013 provisions: (1) prohibit discontinuance of residential basic local service for nonpayment of long distance charges, (2) require that residential service payment first be applied to basic local service, (3) require that the commission adopt and implement rules that require a local service provider to offer and implement toll blocking to limit long distance charges after nonpayment for long distance service, and that allow disconnection of local service

for fraudulent activity, and (4) provide the commission authority to establish a maximum price that a local exchange company may charge a long distance service provider for toll blocking.

To assist in implementing PURA §55.012 and §55.013, the commission held a workshop with all interested parties at the commission's offices on July 19, 1999. Additionally, the commission requested written comments from all interested parties regarding this rulemaking. The commission carefully considered all written and verbal comments in developing the proposed amendments.

The commission received comments on the proposed amendments from MCI WORLDCOM, Inc. (MCIW), Center for Economic Justice (CEJ) and Consumers Union Southwest Regional Office (CU) (filing jointly), Telecommunications Resellers Association (TRA), Southwestern Bell Telephone Company (SWBT), Texas Telephone Association (TTA), the Office of Public Counsel (OPC), Texas Statewide Telephone Cooperative, Inc. (TSTCI), AT&T Communications of the Southwest, Inc. (AT&T), United Telephone Company of Texas, Inc. and Central Telephone Company of Texas (jointly referred to as "Sprint"), and GTE Southwest Incorporated (GTE). The commission also received reply comments from OPC, MCIW, TEXALTEL, AT&T, SWBT, Senator Royce West, and Sprint.

A public hearing on the proposed amendments was held at the commission offices on October 18, 1999, at 9:30 a.m. Representatives from MCIW, CU, AT&T, TEXALTEL, GTE, OPC,

TSTCI, TTA, SWBT, John Staurulakis, Inc., Sprint, and the Office of Senator West participated in the hearing.

The adopted amendments:

1. Identify specific portions of the customer service and protection rules that apply to all providers of basic local telephone service (not just dominant carriers).
2. Prohibit refusal of basic local telephone service to residential applicants for failure to pay long distance charges.
3. Prohibit including long distance charges in determining the deposit amount for residential applicants and customers.
4. Require that residential partial payments first be allocated to basic local telephone service.
5. Allow disconnection of basic local telephone service for avoiding a toll block initiated due to the nonpayment of long distance charges.
6. Allow disconnection of telephone service due to fraudulent activities.
7. Prohibit disconnection of basic local telephone service to a residential customer for failure to pay long distance charges.
8. Require that the disconnection notice for residential service state the specific amount owed for tariffed local telephone services.
9. Provide that if services are bundled, the stand-alone basic local telephone service rate shall be used to determine the amount required to avoid disconnection of residential basic local telephone service.

10. Allow toll blocking of residential applicants for failure to pay long distance charges.
11. Require toll blocking of a residential customer at the request and expense of the long distance carrier due to the nonpayment of long distance charges and establish a maximum one-time installation charge of \$10.00 and monthly charge of \$1.50 for toll blocking.
12. Require toll blocking be applied in a nondiscriminatory manner and, where technically capable, allow access to toll-free numbers.
13. Require notice to be given to toll blocked customers.
14. Require that the Prepaid Local Telephone Service (PLTS) notice include the customer's right to receive basic local telephone service without entering PLTS if the customer does not owe for basic local telephone service charges.

PURA §55.012(c) and §55.013(c) require the commission to adopt and implement rules not later than January 1, 2000. PURA §55.013(e) requires providers of basic local telephone service to comply with the requirements of PURA §55.013 not later than March 1, 2000.

§26.21. General Provisions of Customer Service and Protection Rules

Proposed §26.21(a)(2) identifies specific portions of the customer service and protection rules that apply to all providers of basic local telephone service (not just dominant carriers). Proposed §26.21(a)(2)(A) indicates that proposed §26.23(a)(5) and (c)(5), relating to Refusal of Service, apply to all providers of basic local service. Proposed §26.23(a)(5) and (c)(5) prohibit refusal of service to residential applicants for failure to pay long distance charges.

MCIW and AT&T recommended deleting proposed §26.21(a)(2)(A). MCIW commented that proposed §26.23(a)(5) and (c)(5) exceed legislative authority granted under PURA §55.012 and §55.013. MCIW further stated that PURA §55.012 and §55.013 specifically prohibit disconnection of basic local service for nonpayment of long distance charges, but do not mandate terms for non-dominant carriers. MCIW and TEXALTEL indicated that PURA §52.152 establishes the commission jurisdiction over a holder of certificate of operating authority (COA) and service provider certificate of operating authority (SPCOA), that this provision of PURA was unchanged by SB86 or SB560, and that this provision does not authorize the commission to mandate terms for COAs and SPCOAs to acquire subscribers. MCIW also expressed concern the proposed amendments would require local service providers to provide service to all prospective end users regardless of credit worthiness. TEXALTEL recommended revising proposed §26.21(a)(2) to indicate that the referenced sections do not apply to SPCOAs.

AT&T commented that proposed §26.23(a)(5) and (c)(5) impose additional restrictions beyond the scope intended by the Texas Legislature and simultaneously fail to provide providers of long distance services with sufficient protections to minimize the potential for fraudulent abuse.

Proposed §26.21(a)(2)(B) indicates that proposed §26.24(f)(1) and (f)(3), relating to Credit Requirements and Deposits, apply to all providers of basic local service. Proposed §26.24(f)(1) and (f)(3) prohibit including long distance charges in determining the deposit amount for residential applicants and customers. MCIW and AT&T also recommended deleting proposed

§26.21(a)(2)(B) indicating that proposed §26.24(f)(1) and (f)(3) exceed commission authority as cited above.

Proposed §26.21(a)(2)(D) indicates that proposed §26.28(b)(1), relating to Suspension or Disconnection, applies to all providers of basic local service. Proposed §26.28(b)(1) allows suspension or disconnection of service for failure to pay tariffed charges including long distance charges for nonresidential customers. MCIW recommended proposed §26.28(b)(1) be deleted from proposed §26.21(a)(2)(D). MCIW stated that limiting suspension or disconnection to solely nonresidential end users exceeds the commission's authority.

In its reply comments, SWBT disagreed with the commenters that indicated refusal of service and deposit provisions should apply only to dominant carriers. SWBT stated that treating customers for basic local telephone service differently based on dominant versus non-dominant status would unfairly discriminate against customers.

The commission makes no changes to proposed §26.21(a)(2). The purpose of PURA §55.012 and §55.013 was to sever the link between basic local service and long distance service and to make basic local service more accessible. Thus, including applicants and deposits in the rulemaking is consistent with the provisions in PURA §55.012 and §55.013. Furthermore, the commission does have jurisdiction over non-dominant carriers in these matters. First of all, PURA §55.012 and §55.013 clearly apply to all providers of basic local telephone service. Second, the commission was granted jurisdiction in Senate Bill 86, 76th Legislature (1999)

PURA §17.004(b), to adopt rules for minimum service standards for all certificated telecommunications utilities relating to customer deposits and extension of credit and termination of service.

§26.23. Refusal of Service

Proposed §26.23(a)(5) and (c)(5) prohibit refusal of basic local telephone service to residential applicants for failure to pay long distance charges. TRA, TSTCI, AT&T, and Sprint recommended revising the proposed amendments to permit refusal of service to applicants for the nonpayment of long distance charges. The commenters indicated that the proposed amendments go beyond the intent of PURA §55.012 and §55.013 since the PURA provisions apply to disconnection of service to customers and not to refusal of service to applicants.

TRA stated that the proposed amendments would eliminate an effective tool to prevent bill evasion and expose carriers, particularly small carriers, to greater financial risk. AT&T stated that a competitive local exchange company (CLEC) that is also a long distance provider, should be allowed to deny local service to an applicant that refuses to pay long distance charges from the same company. AT&T also indicated that the proposed amendments would significantly undermine the usefulness of the National Consumer Telecommunications Data Exchange (NCTDE) to many companies such as AT&T, GTE, IXC Communications, MCIW, and Sprint. AT&T further commented that the proposed amendments would discriminate in favor of local service providers that do not bill on behalf of long distance providers.

CEJ and CU strongly recommended adoption of proposed §26.23(a)(5) and (c)(5). CEJ and CU stated that providers should be prohibited from refusing basic local service to an applicant who owes a debt for long distance service. CEJ and CU cited four reasons for this. First, it would be unfairly discriminatory to deny service to an applicant for nonpayment of long distance charges when the statute clearly prohibits refusing service to an existing customer for nonpayment of long distance charges. Second, the intent of the legislation was to increase subscribership levels of local service by disassociating two different services. Third, denying service to applicants would give an unfair advantage to dominant local carriers because they could offer denial of local service as a method to induce payment. Fourth, a dominant certificated telecommunications utility (DCTU) has a statutory duty to serve consumers in its certificated areas and the statute only permits refusal of service for the nonpayment of service being offered by the DCTU - failure to pay for basic local service.

TEXALTEL recommended revising §26.23(c) to indicate refusal of "local telephone service" to make it clear that a company that offers both local and long distance service could refuse long distance service for nonpayment of long distance charges.

In its reply comments, OPC stated that it supported the commission's interpretation of SB86 that the customer protection provisions are intended to capture both customers and applicants.

The commission makes no changes to proposed §26.23(a)(5) and (c)(5). The amendments are consistent with the purpose of PURA §55.012 and §55.013. Both applicants and customers are entitled to the same protections and opportunities to receive basic local telephone service.

The commission's substantive rules for customer protection apply to local telephone service and not long distance service. Therefore, a provider of local service who also provides long distance service may refuse to provide long distance service based on whatever criteria it chooses. However, the provider cannot deny basic local service for the nonpayment of long distance charges.

§26.24. Credit Requirements and Deposits

Proposed §26.24(f)(1) and (3) prohibit including long distance charges in determining the deposit amount for residential applicants and customers. TSTCI, AT&T, and Sprint objected to these proposed amendments. The commenters indicated that the proposed amendments go beyond specific statutory directive approved by the Legislature and would result in increasing uncollectibles. AT&T expressed the following additional concerns: the commission has never regulated the amount of deposit a CLEC could require and there is no need to do so now; this rulemaking limits the nonresidential deposit amount when the statute applies only to residential customers; the proposed amendments could result in a greater inconvenience to all customers by requiring them to contact their long distance provider in order to pay any necessary deposit before long distance service would be authorized; and the proposed changes would discriminate

in favor of CLECs that do not bill on behalf of long distance providers by not subjecting those limited CLECs to any rate regulation of the deposits.

CEJ and CU agreed with the proposed amendments prohibiting local service providers from including estimated billing for long distance service in the required deposit. CEJ and CU stated that if a long distance service provider wants to require its own deposit, that should be an agreement between the customer and the long distance service provider. The local service provider should not be permitted to collect the deposit for the long distance service provider as a condition for providing basic local service, since it is unable to disconnect local service for nonpayment of long distance service.

GTE recommended revising proposed §26.24(f)(1) and (3) to allow including long distance charges in determining the deposit amount when residential applicants and customers choose bundled services that include basic local service and a predetermined amount of long distance usage offered and billed by the same provider.

TEXALTEL recommended revising §26.24(f)(3) to allow including long distance charges in deposits if the applicant or customer obtains long distance service from the same company that is providing local service.

The commission believes that prohibiting local service providers from including long distance charges in determining the deposit amount as a condition for receiving basic local service is

consistent with PURA §55.012 and §55.013 and is an essential element in separating the two types of telecommunications services. The commission agrees with CEJ and CU that long distance service providers may collect their own deposit for long distance service, but that local service providers should only require a deposit for local service.

GTE and TEXALTEL identified a special case where a local service provider provides bundled services to residential customers that include both local and long distance services. In this case the provider is both a local service and long distance service provider and, consistent with the commission's position, is allowed to collect a deposit for each service. However, to comply with the provisions of PURA §55.012 and §55.013, any bundled deposit collected must identify the portion that applies to basic local service and must treat it separately from the deposit amount related to long distance. Bundled services and deposits must in no way jeopardize the clear mandate of the Legislature that basic local service may not be disconnected for the nonpayment of charges for long distance service. Since the commission does not regulate long distance charges or deposits, the bundled deposit approach described above can be accommodated without revising proposed §26.24(f)(1) and (3), which apply only to local service providers and not long distance providers.

§26.27. Bill Payment and Adjustment

Proposed §26.27(j) requires that partial payments first be allocated to basic local telephone service. TSTCI asserted that further clarification is needed to recognize that basic local services

charges include mandatory services included as part of basic local service (i.e., mandatory ELC/EAS), taxes, regulatory fees/surcharges, FCC subscriber line charges, and any other charges directly related to providing basic local telephone service. TSTCI suggested adding language similar to that in §26.29(e)(1)(A)(iii) for proposed §26.27(j), §26.28(i), and §26.28(h)(5). AT&T concurred with TSTCI's recommendation.

AT&T recommended revising proposed §26.27(j) to explicitly limit its application to partial payments by residential customers in accordance with SB86 and SB560 which apply only to residential customers.

The commission confirms that basic local telephone service charges include all charges, fees, and taxes directly related to providing basic local telephone service, but does not believe it is necessary to revise the proposed rules. The commission revises proposed §26.27(j) to clarify that the partial payment provision applies to residential customers.

§26.28. Suspension and Disconnection of Service

Proposed §26.28(b)(6) allows suspension or disconnection with notice for avoidance of toll blocking after toll blocking was implemented due to the nonpayment of long distance charges. MCIW and AT&T recommended moving proposed §26.28(b)(6) to subsection (c), Suspension or disconnection without notice. In their view, avoidance of toll blocking constitutes theft of service and notice should not be required. AT&T also recommended striking the phrase "due to

nonpayment of long distance charges" since toll blocking may be initiated for reasons other than nonpayment of long distance charges.

The commission does not agree with eliminating the notice requirement before suspending or disconnecting the local service of a customer who incurred long distance charges after a toll block was initiated. The AT&T recommendation to delete the phrase "due to nonpayment of long distance charges" had merit based on proposed §26.28(j)(1)(A), which allowed toll blocking for failure to establish credit. However, since the commission deletes §26.28(j)(1)(A) (explained later in this preamble), the only reason for a utility initiated toll block is for nonpayment of long distance charges. Therefore, the commission makes no changes to proposed §26.28(b)(6).

Proposed §26.28(h)(4) requires that suspension and disconnection notices be in English and Spanish. MCIW objected to imposing this rule on MCIW and other new entrants indicating this threatens the initial launch of local competition in Texas. The only proposed change to the current §26.28(h)(4) was in punctuation to accommodate an additional notice provision, proposed §26.28(h)(5). Proposed §26.28(h)(4) applies only to ILECs and not MCIW or any other CLECs. Therefore, the commission makes no changes to proposed §26.28(h)(4).

Proposed §26.28(h)(5) requires that the suspension or disconnection notice for residential customers indicate the specific amount owed for basic local telephone service required to maintain basic local telephone service. TSTCI suggested adding language similar to that in §26.29(e)(1)(A)(iii) for proposed §26.28(h)(5) to recognize that basic local service charges

include mandatory service charges, fees, and surcharges directly related to providing basic local telephone service.

AT&T recommended rejecting the proposed amendment indicating that SB86 and SB560 do not require such detailed notice must be given. AT&T commented that the proposed requirement would increase uncollectibles and it would be extremely costly to a provider to implement an automated system for such notices. AT&T further stated that if the commission should require a notice, that the notice advise residential customers that they must pay at least the amount owed for basic local telephone service in order to avoid disconnection and should contact the provider for more information.

OPC recommended strengthening the proposed rule by requiring utilities to prominently notify and disclose the information to customers, including every time the issue of disconnections is discussed with a customer (orally, electronically, or in writing). AT&T opposed the OPC recommendation stating that it was unreasonable. OPC also urged the commission to include information on the customers' right to continued local service be included in all distributed consumer rights literature, including the "Your Rights as a Customer" section of the telephone directory.

SWBT commented that PURA §55.012 and §55.013 do not provide authority to the commission to prohibit the disconnection of basic local telephone service for the nonpayment of tariffed optional local services. To remove any ambiguity in the rules, SWBT recommended clarifying

proposed §26.28(h)(5) to state that the disconnection notice for residential customers indicate the specific amount owed for tariffed local services required to maintain basic local telephone service. SWBT further pointed out that their recommended change is consistent with current §26.23(c)(2) and §26.28(d)(1).

The commission revises proposed §26.28(h)(5) to make the clarification recommended by SWBT. The commission agrees with TSTCI that basic local services charges include all charges, fees and taxes that are directly related to providing basic local telephone service, but believes this is clearly understood and does not require a revision to the proposed rule. The commission disagrees with AT&T's recommendation. Adequate customer protection requires that the customer be fully informed on any suspension or disconnection notice as to the exact amount that must be paid to continue to receive basic local telephone service. The commission agrees with OPC that the change in the disconnection provisions created by the Legislature must be included in subsequent publications of "Your Rights as a Customer" in telephone directories. The current §26.31(c)(5)(D) and (E) require that the customer be informed on the grounds for suspension or disconnection of service and the steps that must be taken before a utility may suspend or disconnect service. Additionally, the commission has been informing the public about the legislative limitations on basic local service disconnection and intensifies its customer education efforts on this issue with the adoption of the amendments in this rulemaking.

Proposed §26.28(i)(1) requires residential customer payments be first allocated to basic local telephone service. TTA requested clarification that basic local telephone charges include taxes

and governmental fees. TSTCI suggested adding language similar to that in §26.29(e)(1)(A)(iii) for proposed §26.28(i)(1) to recognize that basic local service charges include mandatory service charges, fees, and surcharges directly related to providing basic local telephone service.

The commission confirms that basic local telephone service charges include all charges, fees, and taxes directly related to providing basic local telephone service, but does not believe it is necessary to revise the proposed rule.

Proposed §26.28(i)(2) states that if services are bundled, the rate of basic local telephone service shall be the utility's charge for stand-alone basic local telephone service. AT&T commented that CLECs may have different "flavors" of local service and recommended adding the following to the end of proposed §26.28(i)(2): "as tariffed by the provider." The commission believes that the language in proposed §26.28(i)(2) is clear and that the recommended revision is unnecessary.

MCIW opposed global toll blocking stating that this would be too indiscriminate and prohibit a customer from accessing all long distance networks. MCIW believes that other long distance providers should not be given the right to request a toll block that will restrict customers from accessing the MCIW network.

Sprint, AT&T, and SWBT recommended that the commission adopt a rule that allows local service providers to block globally, not just the current long distance provider, or selective blocking. Selective blocking encourages fraudulent behavior by allowing customers to continue

to place toll calls and results in increased bad debt. Sprint also indicated their Texas local network does not have the technical capacity to perform selective blocking.

In its reply comments, OPC disagreed with the use of global toll blocking indicating that it would be unnecessary and unreasonably punitive and without safeguards would produce anticompetitive results. OPC stated an alternative solution would be for a long distance service provider to become a member of the National Consumer Telecommunications Data Exchange (NCTDE), a "skip tracing" service.

GTE recommended an additional provision to the proposed toll blocking rules that would state that providers of local service have an option to implement a mechanized system to manage credit limits, provide toll block and credit limit notification, and apply toll block automatically, and that upon approval of the mechanized system in a tariff filing, proposed §26.28(j)(2), (4), and (5) would not apply.

In the reply comments, MCIW requested the commission establish a forum for local service providers to address toll blocking timeframes and interconnection agreements. AT&T supported MCIW's request.

TEXALTEL recommended the use of a partial toll block, a "middle of the road" between global and selective blocking. This approach includes: 1) blocking of the provider's toll, 2) blocking all

access to 101XXXX calling, 3) notification to the primary interexchange carrier (PIC), and 4) institution of a Line Identification Database (LIDB) block.

The commission recognizes that toll blocking capabilities vary among individual local exchange companies (LECs) and interexchange carriers (IXCs). The proposed amendments allow flexibility in the type of toll blocking used by a LEC, but require that application of toll blocking be accomplished in a reasonable, nonprejudicial, nondiscriminatory manner, and, where technically feasible, allow access to toll-free numbers. It is not the intent of the commission to require all local service providers obtain a standard toll blocking capacity. Instead, the commission requires that within a local service provider's technical capability, it implement toll blocking in a consistent, reasonable, and nondiscriminatory manner.

The GTE recommended mechanized system has merit, but the commission does not agree that upon approval of the system, proposed §26.28(j)(2), (4), and (5) would not apply. The commission believes that all of the requirements in proposed §26.28(j) are essential and that a mechanized system can be implemented that meets all of the requirements.

The commission welcomes an industry effort to develop a consensus on toll blocking that is consistent with the requirements in PURA. The commission believes that the flexibility in the adopted rules would accommodate a broad range of alternatives. In the event that the industry develops an acceptable approach that requires a change to the adopted rules, the commission will make the necessary revisions to the adopted rules.

Proposed §26.28(j)(1)(A) states that a utility may toll block a residential applicant for failure to establish credit. CEJ, CU, OPC, and Senator West strongly objected to this amendment and recommended it be deleted. CEJ and CU cited the following reasons: first, creditworthiness should not entitle a utility to toll block; second, a long distance carrier may be willing to take the associated risk and the utility has no right to interfere; and third, the utility should not do the long distance carrier's job of investigating and determining the customer's credit worthiness for long distance charges. OPC indicated that the commission lacks jurisdiction under PURA §55.012 and §55.013, which allow toll blocking only when a customer fails to pay for long distance charges. OPC further stated that proposed §26.28(j)(1)(A) is contrary to public policy since it would likely have a negative impact on low-income consumers, that it uses a "guilty-until-proven-innocent" approach that is patently unfair, and that it is so ambiguously worded that it is difficult to determine how it would be used to meet customer protection goals of the statute.

Senator West indicated that he was the author of SB1251, the disconnect bill, which was passed into law as an amendment to SB86, PURA §55.012 and to SB560, PURA §55.013. Senator West cited the following reasons for deleting proposed §26.28(j)(1)(A): the commission lacks authority to implement the proposed amendment since the plain language of the statute allows toll blocking only for nonpayment of long distance charges; a determination of credit worthiness for long distance service should be made by the long distance carrier and a local carrier should not prevent a long distance carrier from providing service to an applicant; the proposed amendment is so ambiguous that it creates more problems than it solves; the proposed

amendment would have a disproportionate negative impact on the young and poor; and there is no validity to the presumption that someone who fails to establish credit would be unable or unwilling to pay the long distance bill.

In response to Senator West's comments, MCIW pointed out that the same legal analysis that he used, no specific language in the statute for proposed §26.28(j)(1)(A), should apply to other proposed amendments that MCIW recommended deleting involving refusal of service to applicants and credit requirements. AT&T's reply comments recommended adding "or pay a deposit for long distance" to proposed §26.28(j)(1)(A) instead of deleting the proposed amendment. AT&T indicated that based on its proposed revision, the local service provider would not toll block an applicant if the applicant requested long distance service from a long distance carrier that does not require establishing credit or a deposit; but if the applicant requested service from a long distance provider that does require establishing credit or a deposit, then the local provider should not be prohibited from toll blocking since insistence by the applicant may indicate fraudulent intent.

After careful consideration of all of the comments provided, the commission deletes proposed §26.28(j)(1)(A).

Proposed §26.28(j)(1)(B) states that a utility may toll block a residential customer for the nonpayment of long distance charges. TRA expressed concern about potential ILEC anti-competitive abuse of toll blocking. TRA indicated that nothing in the proposed rule explicitly

holds the ILEC responsible for demonstrating that it was authorized to impose a toll block on a particular customer for nonpayment of toll charges. TRA recommended that the commission require verification, similar to the anti-slamming rule, of an ILEC's authority to impose a toll block on a consumer, if challenged.

The commission does not believe it is necessary to establish verification requirements for toll blocking. A provider may file a complaint with the commission if it believes a utility is implementing toll blocking in an inappropriate manner. The commission would then require the utility to demonstrate that it is complying with the commission rules and is not engaging in anti-competitive practices.

Proposed §26.28(j)(2) addresses long distance carrier initiated toll blocking. MCIW expressed concern that "MCIW Local" does not have billing arrangements with long distance carriers. MCIW stated that local providers without billing arrangements with long distance carriers should not be forced to interfere with the customer/long distance carrier relationship. Thus, MCIW recommended revising the proposed rule to indicate that a local service provider have a billing arrangement with a long distance provider before accepting a long distance provider's request to toll block. AT&T agreed with MCIW's proposal. MCIW further stated that it would take three years to develop technical interfaces if required to comply with the proposed rule.

AT&T and Sprint recommended modifying proposed §26.28(j)(2) to allow a long distance provider to request a toll block. AT&T also recommended the commission clarify that a utility is

not required to charge a long distance carrier for installing a toll block. SWBT disagreed with that recommendation. AT&T further recommended adding a provision that a CLEC using UNE is not required to implement a toll block unless the underlying provider makes such capacity available as a functionality of the switch.

The commission makes no change to proposed §26.28(j)(2). The language comes directly from PURA §55.012(c)(1) and PURA §55.013(c)(1) and is clear. It would be inappropriate to inject qualifiers not stated in the statute.

Proposed §26.28(j)(5) states that the utility shall notify the customer within 24 hours of initiating a toll block. SWBT recommended revising proposed §26.28(j)(5) to require the long distance carrier to provide the notice to the customer. TTA recommended revising proposed §26.28(j)(5) to state that the carrier requesting the toll block be responsible for notifying the customer. AT&T recommended deleting proposed §26.28(j)(5) stating that this requirement is duplicative of other notices that a customer will have received by the time a toll block is imposed.

The commission makes no changes to §26.28(j)(5). The commission believes that since the utility is implementing the toll block, it should ensure that the customer is notified. Also, the commission specifically addressed the local service provider's interest in recovering notice expenses when the commission set a maximum \$10 nonrecurring charge for long distance carrier initiated toll blocking.

For long distance carrier initiated toll blocking, the notice by the utility may explain that the toll block was initiated by the long distance carrier and include appropriate information for contacting the long distance carrier. Also, if there is agreement between the utility and the long distance provider, the long distance provider may actually send the notice to the customer.

§26.29. Prepaid Local Telephone Service (PLTS)

The commission requested specific comments as to continuing the PLTS rule or amending other rules to permit repealing PLTS without sacrificing customer protections. MCIW indicated that there is no need for PLTS under the requirements of PURA §55.012 and §55.013. TRA commented that it took no position regarding whether ILECs should be allowed to continue to provide PLTS as set forth in §26.29. TRA cautioned that any restrictions on PLTS under §26.29 should apply exclusively to ILECs, and the current §26.29 should apply only to ILECs. TTA's position was that there is still a need to continue PLTS, at least for the time being. TTA stated that PLTS is a service that is meeting the needs of a specific set of customers, and that it supports continuation at this time. TSTCI also recommended retaining PLTS since PURA §55.012 and §55.013 do not guarantee continued local service if the customer owes for basic local service. TSTCI commented that PLTS provides another avenue for keeping as many people as possible on the network. TSTCI recommended revisions to the PLTS rule and requested that the commission revisit TSTCI's comments in Project Number 16804 when PLTS was initially implemented.

The commission continues the PLTS rule, but will continue to monitor the program to determine whether it should be eliminated or revised in the future.

Proposed §26.29(c)(2)(J) requires that the PLTS notice include the customer's option to receive basic local telephone service without entering PLTS if the customer does not owe for basic local telephone service. Senator West and OPC commented that proposed §26.29(c)(2)(J) does not go far enough to make clear to customers that they have a right to basic local telephone service without entering PLTS if they are current on their basic local telephone service bill. Senator West and OPC recommended that this right be prominently displayed in the PLTS notice and that it be communicated to a customer anytime a utility notifies a customer of the rates and conditions of PLTS.

The commission revises proposed §26.29(c)(2)(J) to include the recommendations of Senator West and OPC.

Additional Time for Compliance

MCIW indicated that the March 1, 2000 implementation timeframe does not allow sufficient time to comply with many of the required changes. MCIW requested the commission permit local service providers to obtain good cause waivers and that the rules include a waiver provision. AT&T indicated that if rules are ultimately adopted that impose requirements beyond those stated in the statute, the commission should consider waivers from industry members in

addition to MCIW. SWBT commented that it does not object to a reasonable extension of time due to the upcoming Y2K issues and concerns expressed by some parties. SWBT further stated that if an extension of time is granted, it should apply to all parties.

The commission points out that the Legislature recognized that additional time would be required when it extended the time for compliance to March 1, 2000 in PURA §55.013(e). Therefore, the commission urges all providers of basic local telephone service to take all necessary actions to comply with these adopted amendments as soon as possible. The commission will consider any waiver request for an extension of time to comply. However, approval will require substantial justification.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting these amendments, the commission makes other minor modifications for the purpose of clarifying its intent.

The amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and under Senate Bill 86, 76th Legislature (1999) PURA §55.012 and Senate Bill 560, 76th Legislature (1999) PURA §55.013.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 55.012, and 55.013.

§26.21. General Provisions of Customer Service and Protection Rules.

(a) **Application.**

- (1) Unless the context clearly indicates otherwise, in this subchapter the terms "utility" and "public utility," as they relate to telecommunications utilities, shall refer to dominant carriers.
- (2) The following sections apply to all providers of basic local telephone service who shall comply with the requirements by March 1, 2000:
 - (A) Section 26.23(a)(5) and (c)(5) of this title (relating to Refusal of Service).
 - (B) Section 26.24(f)(1) and (f)(3) of this title (relating to Credit Requirements and Deposits).
 - (C) Section 26.27(j) of this title (relating to Bill Payment and Adjustments).
 - (D) Section 26.28(b)(1), (b)(6), (c)(3), (d)(5), (h)(6), (i), and (j) of this title (relating to Suspension or Disconnection of Service).

- (b) **Purpose.** The purpose of the rules in this subchapter is to establish minimum customer service standards that utilities must follow in providing telephone service to the public. Nothing in these rules should be interpreted as preventing a utility from adopting less restrictive policies for all customers or for differing groups of customers, as long as those policies do not discriminate based on race, nationality, color, religion, sex, or marital status.

- (c) **Definitions.** The following words and terms when used in this subchapter shall have the following meanings, unless the context indicates otherwise.
- (1) **Applicant** — A person who applies for service for the first time or reapplies after discontinuance of service.
 - (2) **Customer** — A person who is currently receiving service from a utility in the person's own name or the name of the person's spouse.
 - (3) **Days** — Unless the context clearly indicates otherwise, in this subchapter the term "days" shall refer to calendar days.

§26.23. Refusal of Service.

- (a) **Acceptable reasons to refuse service.** A utility may refuse to serve an applicant until the applicant complies with state and municipal regulations and the utility's rules and regulations on file with the commission or for any of the reasons identified below.
- (1) **Applicant's facilities inadequate.** The applicant's installation or equipment is known to be hazardous or of such character that satisfactory service cannot be given or the applicant's facilities do not comply with all applicable state and municipal regulations.
 - (2) **Violation of utility's tariffs.** The applicant fails to comply with the utility's tariffs pertaining to operation of nonstandard equipment or unauthorized attachments which interfere with the service of others. The utility shall provide

the applicant notice of such refusal and afford the applicant a reasonable amount of time to comply with the utility's tariffs.

- (3) **Failure to pay guarantee.** The applicant has acted as a guarantor for another customer and fails to pay the guaranteed amount, where such guarantee was made in writing to the utility and was a condition of service.
- (4) **Intent to deceive.** The applicant applies for service at a location where another customer received, or continues to receive, service and the utility bill is unpaid at that location and the utility can prove that the change in identity is made to avoid or evade payment of a utility bill. An applicant may request a supervisory review as specified in §26.30 of this title (relating to Complaints) if the utility determines that the applicant intends to deceive the utility and refuses to provide service.
- (5) **For indebtedness.** Except as provided in §26.29 of this title (relating to Prepaid Local Telephone Service), service may be refused, if the applicant owes a debt to any utility for the same kind of service as that applied for, including long distance charges for nonresidential applicants where a provider of basic local telephone service bills those charges to the customer pursuant to its tariffs. If the applicant's indebtedness is in dispute, the applicant shall be provided service upon complying with the deposit requirement in §26.24 of this title (relating to Credit Requirements and Deposits). Payment of long distance charges shall not be a condition of local exchange service for residential applicants.
- (6) **Refusal to pay a deposit.** Refusing to pay a deposit if applicant is required to do so under §26.24 of this title.

(b) **Applicant's recourse.**

- (1) If a utility has refused to serve an applicant under the provisions of this section, the utility must inform the applicant of the reason for its refusal and that the applicant may file a complaint with the commission as described in §26.30 of this title.
- (2) Additionally, the utility will inform applicants eligible for Prepaid Local Telephone Service, under §26.29 of this title, that this service is available if they are not eligible for standard local telephone service.

(c) **Insufficient grounds for refusal to serve.** The following are not sufficient cause for refusal of service to an applicant:

- (1) delinquency in payment for service by a previous occupant of the premises to be served;
- (2) failure to pay for any charges that are not provided for in a utility's tariffs;
- (3) failure to pay a bill that includes more than six months of underbilling unless the underbilling is the result of theft of service;
- (4) failure to pay the bill of another customer at the same address except where the change in identity is made to avoid or evade payment of a utility bill; and
- (5) failure of a residential applicant to pay for long distance charges.

§26.24. Credit Requirements and Deposits.

(a) Credit requirements for permanent residential applicants.

- (1) A utility may require a residential applicant for service to establish and maintain satisfactory credit as a condition of providing service.
 - (A) Establishment of credit shall not relieve any customer from complying with the utility's requirements for prompt payment of bills.
 - (B) The credit worthiness of spouses established during the last 12 months of shared service prior to their divorce, will be equally applied to both spouses for 12 months immediately after their divorce.
- (2) A residential applicant can demonstrate satisfactory credit using one of the criteria listed in subparagraphs (A) through (C) of this paragraph.
 - (A) The residential applicant:
 - (i) has been a customer of any utility for the same kind of service within the last two years;
 - (ii) is not delinquent in payment of any utility service account;
 - (iii) during the last 12 consecutive months of service was not late in paying a bill more than once;
 - (iv) did not have service disconnected for nonpayment; and

- (v) is encouraged to obtain a letter of credit history from the applicant's previous utility. Utilities are encouraged to provide such information with final bills.
 - (B) The residential applicant demonstrates a satisfactory credit rating by appropriate means, including, but not limited to, the production of:
 - (i) generally acceptable credit cards;
 - (ii) letters of credit reference;
 - (iii) the names of credit references which may be quickly and inexpensively contacted by the utility; or
 - (iv) ownership of substantial equity that is easily liquidated.
 - (C) The residential applicant is 65 years of age or older and does not have an outstanding account balance incurred within the last two years with the utility or another utility for the same type of utility service.
- (3) If the applicant does not demonstrate satisfactory credit using these criteria, the applicant may be required to pay a deposit pursuant to subsection (c) of this section.
- (b) **Credit requirements for non-residential applicants.** If an applicant's credit for service has not been demonstrated satisfactorily to the utility, the applicant may be required to pay a deposit.
- (c) **Initial deposits.**

- (1) A residential applicant or customer who is required to pay an initial deposit may provide the utility with a written letter of guarantee pursuant to subsection (j) of this section, instead of paying a cash deposit.
 - (2) An initial deposit may not be required from an existing customer unless the customer was late paying a bill more than once during the last 12 months of service or had service disconnected for nonpayment. The customer may be required to pay this initial deposit within ten days after issuance of a written disconnection notice that requests such deposit. Instead of an initial deposit, the customer may pay the total amount due on the current bill by the due date of the bill, provided the customer has not exercised this option in the previous 12 months.
- (d) **Additional deposits.**
- (1) **Residential Customers.**
 - (A) During the first 12 months of service, the utility may request an additional deposit from a residential customer. To require the deposit, the customer's actual usage must:
 - (i) be three times estimated usage (or three times average usage of most recent three bills);
 - (ii) exceed \$150; and
 - (iii) exceed 150% of the security held.
 - (B) An additional deposit may also be required if:

- (i) actual billings of a residential customer are at least twice the amount of the estimated billings after two billing periods; and
 - (ii) a suspension or disconnection notice has been issued for the account within the previous 12 months.
 - (C) An additional deposit may be required to be paid within ten days after issuing written notice of suspension or disconnection and requested additional deposit
 - (D) Instead of additional deposit, the customer may elect to pay the total amount due on the current bill by the due date of the bill, provided the customer has not exercised this option in the previous 12 months.
 - (E) The utility may disconnect service if the additional deposit or the current usage payment is not paid within ten days of request provided a written suspension or disconnection notice has been issued to the customer. A suspension or disconnection notice may be issued concurrently with the written request for the additional deposit or current usage payment.
- (2) **Non-residential customers.** An additional deposit may be requested from a non-residential customer.
- (A) To require such a deposit, the actual billings of the non-residential customer must be at least twice the amount of the estimated billings, and a suspension or disconnection notice must have been issued on a bill within the previous 12 months.

- (B) The utility may require that the new deposit be made within ten days after issuing a written suspension or disconnection notice and a request for an additional deposit.
 - (C) The utility may disconnect service if the additional deposit or the current usage payment is not paid within ten days of the request provided a written suspension or disconnection notice has been properly issued to the customer. A suspension or disconnection notice may be issued concurrently with the written request for the additional deposit or current usage payment.

- (e) **Deposits for temporary or seasonal service and for weekend residences.** The utility may require a deposit sufficient to reasonably protect it against the assumed risk for temporary or seasonal service or service to a weekend residence, as long as the policy is applied in a uniform and nondiscriminatory manner. These deposits shall be returned according to guidelines set out in subsection (k) of this section.

- (f) **Amount of deposit.**
 - (1) The total of all deposits shall not exceed an amount equivalent to one-sixth of the estimated annual billing, except as provided in §26.29 of this title (relating to Prepaid Local Telephone Service). The estimated annual billings may include charges that are in a utility's tariffs. For nonresidential applicants and customers,

the deposit amount may include long distance charges only where the provider of basic local telephone service bills those charges to the customer.

- (2) In determining the amount of any deposit permitted by this section, no revenue from non-tariffed products or services may be used.
 - (3) Estimated billings to determine the deposit amount shall not include long distance charges for residential applicants and customers.
- (g) **Interest on deposits.** Each utility requiring deposits shall pay interest on these deposits at an annual rate at least equal to that set by the commission on December 1 of the preceding year, pursuant to Texas Utilities Code Annotated §183.003 (Vernon 1998) (relating to Rate of Interest). If a deposit is refunded within 30 days of receipt, no interest payment is required. If the utility keeps the deposit more than 30 days, payment of interest shall be made retroactive to the date of deposit.
- (1) Payment of the interest to the customer shall be made annually, if requested by the customer, or at the time the deposit is returned or credited to the customer's account.
 - (2) The deposit shall cease to draw interest on the date it is returned or credited to the customer's account.
- (h) **Notification to customers.** When a deposit is required, the utility shall provide applicants or customers written information about deposits by giving the customer a copy of the brochure, "Your Rights as a Customer".

(i) **Records of deposits.**

- (1) The utility shall keep records to show:
 - (A) the name and address of each depositor;
 - (B) the amount and date of the deposit; and
 - (C) each transaction concerning the deposit.
- (2) The utility shall issue a receipt of deposit to each applicant paying a deposit and shall provide means for a depositor to establish claim if the receipt is lost.
- (3) A record of each unclaimed deposit must be maintained for at least four years.
- (4) The utility shall make a reasonable effort to return an unclaimed deposit.

(j) **Guarantees of residential customer accounts.**

- (1) A guarantee between a utility and a guarantor must be in writing and shall be for no more than the amount of deposit the utility would require on the applicant's account pursuant to subsection (f) of this section. The amount of the guarantee shall be clearly indicated in the signed agreement.
- (2) The guarantee shall be voided and returned to the guarantor according to the provisions of subsection (k) of this section.
- (3) Upon default by a residential customer, the guarantor of that customer's account shall be responsible for the unpaid balance of the account only up to the amount agreed to in the written agreement.

- (4) The utility shall provide written notification to the guarantor of the customer's default, the amount owed by the guarantor, and the due date for the amount owed.
 - (A) The utility shall allow the guarantor 16 days from the date of notification to pay the amount owed on the defaulted account. If the sixteenth day falls on a holiday or weekend, the due date shall be the next workday.
 - (B) The utility may transfer the amount owed on the defaulted account to the guarantor's own service bill provided the guaranteed amount owed is identified separately on the bill as required by §26.25(c)(4)(I) of this title (relating to the Issuance and Format of Bills).
 - (5) The utility may disconnect service to the guarantor for nonpayment of the guaranteed amount only if the disconnection was included in the terms of the written agreement and only after proper notice as described by paragraph (4) of this subsection, and §26.28(b)(5) of this title (relating to Suspension or Disconnection of Service).
- (k) **Refunding deposits and voiding letters of guarantee.**
- (1) If service is not connected, or is disconnected, the utility shall promptly void and return to the guarantor all letters of guarantee on the account or provide written documentation that the contract has been voided or refund the customer's deposit plus accrued interest on the balance, if any, in excess of the unpaid bills for service furnished. A transfer of service from one premise to another within the

service area of the utility is not a disconnection, and no additional deposit may be required.

- (2) When the customer has paid bills for service for 12 consecutive residential billings or for 24 consecutive non-residential billings without having service disconnected for nonpayment of a bill and without paying bills late more than twice, and when the customer is not delinquent in the payment of the current bills, the utility shall promptly refund the deposit plus accrued interest to the customer, or void and return the guarantee, or provide written documentation that the contract has been voided. If the customer does not meet these refund criteria, the deposit and interest or letter of guarantee may be retained.

- (l) **Re-establishment of credit.** Every applicant who previously has been a customer of the utility and whose service has been disconnected for nonpayment of bills or theft of service shall be required, before service is reconnected, to pay all amounts due the utility or execute a deferred payment agreement, if offered, and reestablish credit. The utility must prove the amount of utility service received but not paid for and the reasonableness of any charges for the unpaid service and any other charges required as a condition of service restoration.

- (m) **Upon sale or transfer of utility or company.** Upon the sale or transfer of any utility or any of its operating units, the seller shall provide the buyer with all deposit records.

§26.27. Bill Payment and Adjustments.

- (a) **Bill due date.** The bill provided to the customer shall include the payment due date, which shall not be less than 16 days after issuance. The issuance date is the postmark date on the envelope or the issuance date on the bill if there is no postmark on the envelope. Payment for utility service is delinquent if not received at the utility or at the utility's authorized payment agency by close of business on the due date. If the sixteenth day falls on a holiday or weekend, then the due date shall be the next workday after the sixteenth day.
- (b) **Penalty on delinquent bills for retail service.** A one-time penalty not to exceed 5.0% may be charged on each delinquent commercial or industrial bill. No penalty shall apply to a residential bill. The 5.0% penalty on delinquent bills may not be applied to any balance to which the penalty has already been applied. A telecommunications utility providing any service to the state, including service to an agency in any branch of government, shall not assess a fee, penalty, interest, or other charge to the state for delinquent payment of a bill.
- (c) **Billing adjustments due to service interruptions.** In the event a customer's service is interrupted other than by the negligence or willful act of the customer, and it remains interrupted for 24 hours or longer after being reported and after access to the premises is made available, appropriate adjustment or refunds shall be made to the customer.

- (1) The amount of adjustment or refund shall be determined on the basis of the known period of interruption, generally beginning from the time the service interruption is first reported.
 - (2) The refund to the customer shall be the proportionate part of the month's flat rate charges for the period of days and that portion of the service facilities rendered useless or inoperative.
 - (3) The refund may be accomplished by a credit on a subsequent bill.
- (d) **Overbilling.** If charges are found to be higher than authorized by the utility's tariffs, the customer's bill shall be corrected.
- (1) The correction shall be made for the entire period of the overbilling.
 - (2) If the utility corrects the overbilling within three billing cycles of the error, it need not pay interest on the overcharge.
 - (3) If the utility does not correct the overcharge within three billing cycles of the bill in error, it shall pay interest on the amount of the overcharge at the rate set by the commission each year.
 - (A) The interest rate shall be based on an average of prime commercial paper rates for the previous 12 months.
 - (B) Interest on overcharges that are not adjusted by the utility within three billing cycles of the bill in error shall accrue from the date of payment or the date of the bill in error.
 - (C) All interest shall be compounded monthly based on the annual rate.

- (e) **Underbilling.** If charges are found to be lower than authorized by the utility's tariffs, or if the utility failed to bill the customer for service, the customer's bill may be corrected.
- (1) The utility may backbill the customer for the amount that was underbilled. The backbilling shall not collect charges that extend more than six months from the date the error was discovered unless underbilling is a result of theft of service by the customer.
 - (2) The utility may disconnect service if the customer fails to pay charges arising from an underbilling.
 - (3) If the underbilling is \$50 or more, the utility shall offer the customer a deferred payment plan option for the same length of time as that of the underbilling. A deferred payment plan need not be offered to a customer whose underpayment is due to theft of service.
 - (4) The utility shall not charge interest on underbilled amounts unless such amounts are found to be the result of theft of service by the customer. Interest on underbilled amounts shall be compounded monthly based on the annual rate and shall accrue from the day the customer is found to have first tampered with, bypassed, or diverted the service.
- (f) **Disputed bills.**
- (1) If there is a dispute between a customer and a utility about any bill for utility service, the utility shall investigate and report the results to the customer. If the

dispute is not resolved, the utility shall inform the customer of the complaint procedures of the commission pursuant to §26.30 of this title (relating to Complaints).

- (2) A customer's service shall not be suspended or disconnected for nonpayment of the disputed portion of the bill before the dispute is completely resolved by the utility.
 - (3) If the customer files a complaint with the commission, a customer's service shall not be suspended or disconnected for nonpayment of the disputed portion of the bill until the commission completes its informal complaint resolution process and informs the customer of its conclusions. If payment of some portion of the disputed amount is then required, the customer shall have ten days from the date when the commission issued its findings to pay the outstanding bill before it will be considered delinquent.
 - (4) The customer is obligated to pay any billings not disputed.
- (g) **Notice of alternative payment programs or payment assistance.** When a customer contacts a utility and indicates inability to pay a bill or need of assistance with payment, the utility shall inform the customer of all alternative payment and payment assistance programs available from the utility, such as deferred payment plans, disconnection moratoriums for the ill, as applicable, and of the eligibility requirements and procedure for applying for each.

- (h) **Payment arrangements.** A "payment arrangement" is any agreement between the utility and a customer which allows the customer to pay the outstanding bill after its due date but before the due date of the next bill. If the utility issued a suspension or disconnection notice before the payment arrangement was made, that suspension or disconnection should be suspended until after the due date for the payment arrangement. If a customer does not fulfill the obligations of the payment arrangement, the utility may suspend or disconnect service after the later of the due date for the payment arrangement or the suspension or disconnection date indicated in the notice, pursuant to §26.28 of this title (relating to Suspension or Disconnection of Service), without issuing an additional notice.
- (i) Deferred payment plan. A deferred payment plan is any written agreement between the utility and a customer that allows a customer to pay an outstanding bill in installments that extend beyond the due date of the next bill. A deferred payment plan may be established in person or by telephone and all deferred payment plans shall be put in writing.
- (1) The utility shall offer a deferred payment plan to any residential customer, including a guarantor of any residential customer, who has expressed an inability to pay all of the bill, if that customer has not been issued more than two suspension or disconnection notices during the preceding 12 months; and
 - (2) Every deferred payment plan shall provide that the delinquent amount may be paid in equal installments over at least three billing cycles.

- (3) When a residential customer has received service from its current utility for less than three months, the utility is not required to offer a deferred payment plan if the residential customer lacks:
 - (A) sufficient credit; or
 - (B) a satisfactory history of payment for service from a previous utility.
- (4) Every deferred payment plan offered by a utility:
 - (A) shall state, immediately preceding the space provided for the customer's signature and in boldface type no smaller than 14 point size, the following:

"If you are not satisfied with this contract, or if agreement was made by telephone and you feel this contract does not reflect your understanding of that agreement, contact the utility immediately and do not sign this contract. If you do not contact the utility, or if you sign this agreement, you may give up your right to dispute the amount due under the agreement except for the utility's failure or refusal to comply with the terms of this agreement."

In addition, if the customer and the utility representative or agent meet in person, the utility representative shall read the preceding statement to the customer. The utility shall provide information to the customer in English and Spanish as necessary to make the preceding statement understandable to the customer;

- (B) may include a 5.0% penalty for late payment but shall not include a finance charge;
 - (C) shall state the length of time covered by the plan;
 - (D) shall state the total amount to be paid;
 - (E) shall state the specific amount of each installment;
 - (F) shall allow the utility to disconnect service if a customer does not fulfill the terms of the deferred payment plan;
 - (G) shall not refuse a customer participation in such a program on the basis of race, nationality, religion, color, sex, or marital status;
 - (H) shall be signed by the customer and a copy of the signed plan must be provided to the customer. If the agreement is made over the telephone, then the utility shall send a copy of the plan to the customer for signature; and
 - (I) shall allow either the customer or the utility to renegotiate the deferred payment plan, if the customer's economic or financial circumstances change substantially during the time of the plan.
- (5) A utility may disconnect a customer who does not meet the terms of a deferred payment plan. However, the utility may not disconnect service until a disconnection notice has been issued to the customer indicating that the customer has not met the terms of the plan. The notice and disconnection shall conform with the disconnection rules in §26.28 of this title. The utility may renegotiate the deferred payment plan agreement before disconnection. If the customer did not

sign the deferred payment plan and is not otherwise fulfilling the terms of the plan and the customer was previously provided a disconnection notice for the outstanding amount, no additional notice is required.

- (j) **Residential partial payments.** Residential service payment shall first be allocated to basic local telephone service.

§26.28. Suspension or Disconnection of Service.

- (a) **Suspension or disconnection policy.** If a utility chooses to suspend or disconnect a customer, it must follow the procedures below or modify them in ways that are more generous to the customer in terms of the cause for suspension or disconnection, the timing of the suspension or disconnection notice, and the period between notice and suspension or disconnection. Each utility is encouraged to develop specific policies for suspension and disconnection that treat its customers with dignity and respect for customers' or members' circumstances and payment history, and to implement those policies in ways that are consistent and non-discriminatory. Suspension or disconnection are options allowed by the commission, not requirements placed upon the utility by the commission.
- (b) **Suspension or disconnection with notice.** Utility service may be suspended or disconnected after proper notice, for any of these reasons:

- (1) failure to pay a bill for charges that are in a utility's tariffs, including long distance charges for nonresidential customers only where the provider of basic local telephone service bills those charges to the customer pursuant to its tariffs, or make deferred payment arrangements by the date of suspension or disconnection;
 - (2) failure to comply with the terms of a deferred payment agreement except as provided in §26.29 of this title (relating to Prepaid Local Telephone Service);
 - (3) violation of the utility's rules on the use of service in a manner which interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the customer and the customer has a reasonable opportunity to remedy the situation;
 - (4) failure to pay a deposit as required by §26.24 of this title (relating to Credit Requirements and Deposits);
 - (5) failure of the guarantor to pay the amount guaranteed, when the utility has a written agreement, signed by the guarantor, that allows for disconnection of the guarantor's service for nonpayment; or
 - (6) avoidance of toll blocking by incurring long distance charges after toll blocking was implemented by the utility due to nonpayment of long distance charges.
- (c) **Suspension or disconnection without notice.** Utility service may be suspended or disconnected without notice, except as provided in §26.29 of this title, for any of the following reasons:

- (1) where service is connected without authority by a person who has not made application for service;
 - (2) where service was reconnected without authority after termination for nonpayment; or
 - (3) where there are instances of tampering with the utility company's equipment, evidence of theft of service, or other acts to defraud the utility.
- (d) **Suspension or disconnection prohibited.** Utility service may not be suspended or disconnected for any of these reasons:
- (1) failure to pay for any charges that are not provided for in a utility's tariffs;
 - (2) failure to pay for a different type or class of utility service unless charges were included on the bill at the time service was initiated;
 - (3) failure to pay charges resulting from underbilling that is more than six months before the current billing, except for theft of service;
 - (4) failure to pay disputed charges until a determination is made on the accuracy of the charges; or
 - (5) failure of a residential customer to pay long distance charges.
- (e) **Suspension or disconnection on holidays or weekends.** Unless a dangerous condition exists or the customer requests disconnection, service shall not be suspended or disconnected on holidays or weekends, or the day immediately preceding a holiday or

weekend, unless utility personnel are available on those days to take payments and reconnect service.

(f) **Disconnection due to utility abandonment.** No public utility may abandon a customer or a certified service area without written notice to its customers and all neighboring utilities, and approval from the commission.

(g) **Suspension or disconnection for ill and disabled.** No utility may suspend or disconnect service at the permanent residence of a delinquent customer if that customer establishes that such action will prevent the customer from summoning emergency medical help for someone who is seriously ill residing at that residence.

(1) Each time a customer seeks to avoid suspension or disconnection of service under this subsection, the customer before the date of suspension or disconnection shall:

(A) have the person's attending physician (for purposes of this subsection, the term "physician" shall mean any public health official, including, but not limited to, medical doctors, doctors of osteopathy, nurse practitioners, registered nurses, and any other similar public health official) contact the utility by the stated date of disconnection;

(B) have the person's attending physician submit a written statement to the utility; and

(C) enter into a deferred payment plan.

- (2) The prohibition against suspension or disconnection provided by this subsection shall last 63 days from the issuance of the utility bill or a shorter period agreed upon by the utility and the customer or physician.
- (h) **Suspension and disconnection notices.** Any suspension or disconnection notice issued by a utility to a customer must:
- (1) not be issued to the customer before the first day after the bill is due. Payment of the delinquent bill at a utility's authorized payment agency is considered payment to the utility;
 - (2) be a separate mailing or hand delivery with a stated date of suspension or disconnection and with the words "suspension notice," or "disconnection notice," or similar language prominently displayed on the notice;
 - (3) have a suspension or disconnection date that is not a holiday or weekend day, not less than ten days after the notice is issued;
 - (4) be in English and Spanish;
 - (5) for residential customers, indicate the specific amount owed for tariffed local telephone services required to maintain basic local telephone service; and
 - (6) include a statement notifying customers that if they need assistance paying their bill, or are ill and unable to pay their bill, they may be able to make some alternative payment arrangement or establish a deferred payment plan. The notice shall advise customers to contact the utility for more information.

(i) **Residential customer payment allocations.** Payment allocations related to basic local telephone service suspension or disconnection are as follows:

- (1) Payments shall first be allocated to basic local telephone service.
- (2) If services are bundled, the rate of basic local telephone service shall be the utility's charge for stand-alone basic local telephone service.

(j) **Toll blocking.**

- (1) **Utility initiated.** The utility may toll block a residential customer for the nonpayment of long distance charges.
- (2) **Long distance carrier initiated.** The utility shall toll block a residential customer at the request and expense of a long distance carrier due to the nonpayment of long distance charges. The utility shall not charge the long distance carrier more than \$10.00 for one-time installation nor more than \$1.50 per month for toll blocking.
- (3) **Access to toll-free numbers.** Where technically capable, toll blocking shall allow access to toll-free numbers.
- (4) **Nondiscriminatory application.** The utility shall not apply toll blocking in an unreasonably preferential, prejudicial, or discriminatory manner.
- (5) **Notice requirement.** The utility shall notify the customer within 24 hours of initiating toll blocking.

§26.29. Prepaid Local Telephone Service (PLTS).

- (a) **Applicability.** The provisions of this section shall apply to all dominant certificated telecommunications utilities (DCTUs) unless specifically indicated otherwise. A DCTU shall provide prepaid local telephone service (PLTS) as required by this section and shall not refuse to provide PLTS to an applicant for such service because the applicant is indebted to any DCTU or other telecommunications carrier for telecommunication services, including the carriage charges of interexchange carriers where the DCTU bills those charges under tariffs or contracts.
- (b) **Eligible customers.**
- (1) **Former customers.** In cases where a DCTU would refuse to provide service to an applicant for residential telephone service because of indebtedness to any DCTU or other telecommunications carrier, the applicant is eligible to receive PLTS as required by this section.
 - (2) **Current customers.** A current residential customer who has not been disconnected but who has received a notice following suspension of service for non-payment for services is eligible to receive PLTS as required by this section.
 - (3) **Applicant previously disconnected from PLTS by a DCTU.** Any applicant who was previously disconnected from PLTS by a DCTU, pursuant to subsection (e)(6) of this section, does not have the right to receive PLTS from that DCTU again.
 - (4) Business customers shall not be eligible for PLTS.

(c) **Requirements for notifying customers about PLTS.** A DCTU shall provide notice to its customers about PLTS as required by this subsection.

(1) **Timing of notice.**

(A) If the DCTU's standard practice is to suspend a customer's service for non-payment of charges before disconnecting service, it shall notify the customer of the availability of PLTS in the suspension notice.

(B) If the DCTU's standard practice is to disconnect a customer's service without suspension, the DCTU shall notify such customer of the availability of PLTS within three days after disconnection.

(2) **Content of notice.** The notice provided by a DCTU offering PLTS shall be reviewed in the DCTU's compliance filing and shall notify customers of the rates, terms, and conditions of PLTS, as described in subsection (e) of this section, including:

(A) a customer's eligibility to enter into the PLTS plan;

(B) a description of the PLTS plan including its features, charges, and options;

(C) a customer's responsibility to make an initial payment for PLTS and any applicable service connection charges, as defined in subsection (e)(2)(A) of this section;

(D) a customer's responsibility to make the initial deferred payment, if applicable, in the third billing cycle and every month thereafter, for up to 12 months;

- (E) a customer's responsibility not to incur additional charges for calls, including long distance or other usage-sensitive services that will be charged on the local telephone bill, nor to subscribe to any services other than those included in PLTS, as defined in §26.5 of this title (relating to Definitions);
- (F) a customer's violation of the terms and conditions of the PLTS plan may result in disconnection;
- (G) if a customer is disconnected for violation of the terms and conditions of the PLTS plan, a DCTU has the right to retain and apply any credit in the PLTS account to the customer's outstanding balances for telecommunications services;
- (H) If a customer is disconnected for violation of the terms and conditions of the PLTS plan, that customer does not have the right to receive PLTS from that DCTU again;
- (I) the customer's responsibility to subscribe to PLTS within a certain time period in order to defer service restoration or connection charges as described in subsection (e)(1)(B) of this section; and
- (J) the customer's right to receive basic local telephone service without entering PLTS if the customer does not owe for basic local telephone charges. (This right shall be prominently displayed on the notice and shall be communicated to a customer anytime the utility notifies a customer of the rates and conditions of PLTS).

(d) **Subscription to PLTS.**

- (1) **Customer request to subscribe to PLTS.** To subscribe to PLTS, an eligible customer must contact the DCTU during regular business hours to request PLTS.
- (2) **Confirmation letter.** Within 24 hours after a customer requests PLTS, the DCTU shall mail the customer a confirmation letter in English or Spanish as necessary, explaining the PLTS plan, including the customer's rights and responsibilities upon enrollment and information about the rates, terms, and conditions of service under the PLTS plan.

(e) **Rates, terms, and conditions of PLTS.** A DCTU shall offer PLTS under the following terms and conditions:

(1) **Rates for PLTS.**

- (A) The monthly rate for PLTS shall include only:
 - (i) the applicable residential tariffed rate (or lifeline rates, if applicable) for services included in the PLTS definition in §26.5 of this title;
 - (ii) tariffed charges for non-listed and non-published service, if requested by the customer; and
 - (iii) surcharges and fees authorized by a governmental entity that are billed by the DCTU, including 911, subscriber line charges, sales tax, and municipal fees.

(B) Non-recurring rates.

- (i) If a DCTU does not suspend basic local service before disconnection, the DCTU must defer service connection charges until the customer returns to basic local telecommunications service. However, if a customer does not subscribe to PLTS within ten days from the date the DCTU mailed a termination notice containing notice of PLTS eligibility, the DCTU may charge service connection charges when subscribing to PLTS.
- (ii) If a DCTU suspends basic local service prior to disconnection, the DCTU must defer service restoration charges until the subscribing customer returns to basic local telecommunications service.

(C) Late charges. The DCTU shall not assess late charges on a PLTS customer.

(2) **Payments under PLTS.**

(A) A DCTU may require the residential PLTS customer to make an initial payment for service, which shall not exceed:

- (i) the rates as described in paragraph (1)(A) of this subsection for up to two months of service; and
- (ii) applicable non-recurring service connection charges.

(B) A DCTU shall not require subsequent monthly payments that exceed the rates for one month of PLTS. The due date of monthly payments shall be based on the DCTU's regular monthly billing cycle.

- (C) A customer may be required to make payments under the deferred payment plan according to paragraph (4) of this subsection.
- (3) **Toll blocking.** PLTS subscribers shall have mandatory toll blocking and usage sensitive blocking placed on the telephone lines.
 - (A) Customer responsibility. A customer subscribing to PLTS shall not place or receive calls, including long distance or other usage-sensitive services, for which additional charges are billed to the customer's telephone number, nor subscribe to any services other than those included in PLTS.
 - (B) DCTU responsibility. The DCTU shall notify the customers of their responsibilities under PLTS when the customer inquires about the service in the confirmation letter.
- (4) **Deferred payment plan under PLTS.** As a condition of subscribing to PLTS, the DCTU may require an applicant to enter into a deferred payment plan for any outstanding debt owed to the DCTU for basic local telephone service. The DCTU shall not require an applicant to enter into a deferred payment plan to pay any outstanding debt for any services that the customer cannot use under PLTS including long distance services. If the DCTU is unable to determine the amount of outstanding debt, the DCTU shall not require an applicant to enter into a deferred payment plan.
 - (A) Determination of deferred payment plan amount. To determine the deferred payment plan amount, the DCTU shall:

- (i) determine the amount the customer owes for basic local telephone service;
 - (ii) apply any undesignated partial payment made by the customer before subscribing to PLTS to past debt for local telecommunications service; and
 - (iii) not reallocate any undesignated partial payments assigned under clause (ii) of this subparagraph to amounts not yet incurred for basic local telecommunications service.
- (B) Monthly payments under the deferred payment plan.
 - (i) A deferred payment plan for past due charges shall not require the applicant to make monthly payments which exceed \$10 per month or one-twelfth of the outstanding debt as determined in subparagraph (A) of this paragraph, whichever is greater.
 - (ii) If the DCTU and PLTS customer enter into a deferred payment, the initial deferred payment shall be billed beginning with the third billing cycle after initiation of service and on a monthly basis thereafter.
- (5) **Customer deposit.** No deposit shall be required from any residential applicant for PLTS.
- (6) **Disconnection of PLTS.**
 - (A) Disconnection with notice. A DCTU may disconnect PLTS after notice for any of the following reasons:

- (i) failure to comply with the terms of a deferred payment plan for PLTS;
 - (ii) upon conclusion of all periods for which an advance payment has been applied to the PLTS account and when the customer's PLTS account has a zero balance; or
 - (iii) violation of the DCTU's rules on using PLTS in a manner which interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the customer and the customer has a reasonable opportunity to remedy the situation.
- (B) Disconnection without notice. A DCTU may immediately disconnect PLTS without notice:
- (i) if the customer accrues new charges for toll or other services on the telephone bill as described in paragraph (3) of this subsection;
 - (ii) where a known dangerous condition exists for as long as the condition exists; or
 - (iii) where service is connected without authority by a person who has not applied for the service or who has reconnected service without authority after termination.
- (C) Notice after disconnection. If a PLTS customer is disconnected under subparagraph (A) or (B) of this paragraph, a DCTU shall send a final notice stating that the customer is permanently disconnected from PLTS

and that the customer shall not be eligible for PLTS from that DCTU.

That notice shall also state the terms and conditions that the customer must satisfy before the customer can return to basic local telecommunications service.

(f) **Return to basic local telecommunications service.**

(1) A customer subscribing to PLTS may return to basic local telecommunications service if the customer has paid:

(A) all outstanding debt to the DCTU, including the carriage charges of interexchange carriers where the DCTU bills those charges pursuant to tariffs or contracts; and

(B) bills for PLTS.

(2) When a customer completes the obligations identified in paragraph (1) of this subsection, a DCTU shall notify the customer of the:

(A) eligibility requirements for returning to basic local telecommunications services;

(B) option of receiving basic local telecommunications service with toll blocking and/or usage sensitive blocking; and

(C) requirement to contact the DCTU if the customer wants to return to basic local telecommunications service.

(3) If the customer is eligible to return to basic local telecommunications service, the customer shall:

- (A) request basic local telecommunications service from the DCTU; and
- (B) pay the service restoration fee, if applicable.

(g) **Customer education.**

- (1) The commission shall provide information about the PLTS plan to customers.
- (2) A DCTU subject to the requirements of this section shall provide information about the PLTS plan annually in customers' bills. This information shall be subject to review during the DCTU's compliance filing.
- (3) A DCTU or its affiliate publishing a white pages directory on behalf of the DCTU shall disclose in clear language the availability, terms, and conditions of the PLTS plan in the section of the directory stating the rights of a customer.

(h) **Toll and usage sensitive blocking capability.**

- (1) The DCTU shall provide toll blocking and usage sensitive blocking to its maximum technical capability.
 - (A) If the DCTU's tariffs reflect its maximum technical capability, it shall provide toll blocking and usage sensitive blocking as stated in those tariffs.
 - (B) If the DCTU's tariffs do not reflect its maximum technical blocking capability, it shall inform the commission of the maximum level of blocking it is required to provide under PLTS in its compliance filings.
 - (C) If the DCTU does not have a tariff for toll or usage sensitive blocking but has such technical capability, it shall inform the commission of the

maximum level of blocking it is required to provide under PLTS in its compliance filings.

(D) As the DCTU's blocking capability increases, it shall notify the commission and provide such enhanced blocking under PLTS.

- (2) Where technically capable, toll blocking shall not deny access to toll-free numbers.
- (3) When imposing a toll or usage sensitive services block, the DCTU shall do so in a manner that is not unreasonably preferential, prejudicial, or discriminatory.

(i) **Waiver request.**

- (1) A DCTU may request exemption from the requirements of this section, on a wire-center by wire-center basis, if it cannot meet the toll blocking and/or usage sensitive requirements.
- (2) A DCTU requesting a waiver shall fully document in its compliance filings the technical reasons for its inability to toll and/or usage sensitive block and indicate when such technical capability will be available in the wire center.
- (3) A waiver shall expire when the DCTU acquires the capability to block toll and/or usage sensitive services or when the DCTU is required to acquire the capability to toll and/or usage sensitive block by federal or state law or regulations, whichever comes first. The DCTU shall notify the commission in writing within 30 days of acquiring or being required to acquire the capability.

- (j) **Interexchange carrier (IXC) notification.** A DCTU serving 31,000 or more access lines and that is not a cooperative corporation shall:
- (1) Within 24 hours after a customer subscribes to PLTS, include a notice in the Customer Access Record Exchange (CARE) or similar report if developed by the DCTU, and the Line Identification Database (LIDB) indicating that the customer is subscribed to PLTS and any number changes;
 - (2) Make access to the information contained in LIDB available to all IXCs serving the customer's area; and
 - (3) If CARE, or similar report if developed by the DCTU, and LIDB are not available, the DCTU shall specify in its tariffs a comparable method of providing such notice to IXCs serving the area indicating a customer's subscription to PLTS; and
 - (4) This subsection should not be interpreted as expanding access to CARE, or similar report if developed by the DCTU, to IXCs other than the customers' presubscribed carriers.
- (k) **Tariff compliance.** A DCTU subject to this section shall file tariffs in compliance with this section, and pursuant to §26.207 of this title (relating to Form and Filing of Tariffs) and §26.208 of this title (relating to General Tariff Procedures).

This agency hereby certifies that the rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that amendments to §26.21 relating to General Provisions of Customer Service and Protection Rules; §26.23 relating to Refusal of Service; §26.24 relating to Credit Requirements and Deposits; §26.27 relating to Bill Payment and Adjustments; §26.28 relating to Suspension or Disconnection of Service; and §26.29 relating to Prepaid Local Telephone Service (PLTS) are hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 6th DAY OF DECEMBER 1999.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Pat Wood, III

Commissioner Judy Walsh

Commissioner Brett A. Perlman