

PROJECT NO. 37215

RULEMAKING PROCEEDING TO	§	PUBLIC UTILITY COMMISSION
ADOPT COMMON TERMS	§	
RELATED TO BILLING OF	§	OF TEXAS
TELECOMMUNICATIONS	§	
SERVICES	§	

**ORDER ADOPTING AMENDMENT TO §26.25
AS APPROVED AT THE NOVEMBER 5, 2009 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §26.25, relating to Issuance and Format of Bills, with changes to the proposed text as published in the August 14, 2009 issue of the *Texas Register* (34 TexReg 5462). The amendment implements certain provisions of Texas House Bill 1822, 81st Leg. (2009) (HB 1822) pertaining to a list of defined terms common to the telecommunications industry. HB 1822 amended the Public Utilities Regulatory Act (PURA) §§17.003(c), 17.004(a), and 17.102. The rule will require certificated telecommunications utilities (CTUs) to use defined terms or acceptable abbreviations in billing their residential consumers to the extent that the terms apply to the customer's bill. The amendment is adopted under Project Number 37215.

The commission received written comments on the proposed amendment from Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T); GTE Southwest, Incorporated d/b/a Verizon Southwest, MCImetro Access Transmission Services, Inc. d/b/a Verizon Access Transmission Services, and Verizon Long Distance, LLC (Verizon); Office of Public Utility Counsel (OPC); John Staurulakis, Inc. (JSI); Sprint Communications Company, LP (Sprint); T-Mobile West Corporation d/b/a T-Mobile; TEXALTEL; Texas Cable Association (TCA); Texas Statewide Telephone Cooperative, Inc. (TSTCI); Texas Telephone Association (TTA); and tw telecom of Texas llc (TWTC). No public hearing on the proposed amendment was requested.

*Comment Summary**Need for Rule Amendment*

TCA argued that any consumer confusion regarding terms used on telephone bills has already been addressed by the commission in §26.25 of this title (relating to Issuance and Format of Bills), §26.31 (relating to Disclosures to Applicants and Customers), §26.32 (relating to Protection Against Unauthorized Billing Charges), and the Federal Communication Commission's (FCC's) April 1999 Truth in Billing Order. TCA noted that the billing terms currently used by CTUs are familiar to and accepted by consumers today and have not been challenged before either at the commission or the FCC. TCA further noted that customer service departments receive few, if any, inquiries from consumers today regarding the fees and taxes on their bills. TCA added that Chairman Solomons' July 14, 2009 letter in this proceeding noted that his primary focus in authoring HB 1822 was due to complaints arising in the electric industry and that he included the telecommunications industry, even though he had not received the same volume of complaints from telecommunications consumers. JSI added that §26.25, adopted in Project Number 22130, already requires telecommunications providers to utilize brief, plain language describing services offered and charges applied to customer bills, consistent with the guidance provided in the FCC's April 1999 Truth in Billing Order. TTA agreed with TCA and JCI that any confusing telecom terms have been thoroughly addressed by the FCC and the commission and that primary billing terms are already clearly defined.

OPC agreed with the CTU parties that the 1999 FCC guidance relating to Truth in Billing addressed confusion related to customer billing statements and that the FCC rules require

charges contained on telephone bills to be accompanied by a brief, non-misleading, plain language description of the services rendered. OPC also recognized that Project Number 22130, along with SB 560 (enacted in the 76th regular session) made great strides toward ensuring that phone bills were more consumer-friendly. OPC also acknowledged that Chairman Solomons indicated that the primary focus for common terms was complaints arising in the electric industry. OPC pointed out that Chairman Solomons had not received the same number of complaints from telecommunications consumers, because efforts by the commission with assistance from OPC had resulted in general consistency in telecommunications bills.

Commission Response

The commission agrees with the parties that the commission's adoption of the current §26.25 in Project Number 22130 has resulted in significantly fewer consumer complaints concerning telecommunications bills. While the primary focus of HB 1822 was electric complaints, it applies to telecommunications bills as well, and the commission believes that it has an obligation to address telecommunications bills. HB 1822 provides the commission with an opportunity to define and standardize common telecommunications terms to be used on CTU bills to further facilitate consumer understanding of relevant billing elements.

Extending Application of Rule Beyond Residential Customers

OPC proposed to expand the application of the rule to include business customers. AT&T, Sprint, TCA, TEXALTEL, TWTC, and Verizon strongly opposed this proposal and recommended that the commission continue to limit the application of §26.25 to residential customers only. They commented that the existing rule was revised in 2000 as a result of the

enactment of PURA §55.012. Verizon noted that the preamble and the adopted rule made it clear that the commission consciously restricted the rule to residential customers, even though the statute did not specify such a restriction. Verizon opined that the commission's interpretation of the statute as applying only to residential customers, for the purposes of this rule, is entitled to great weight. In noting that the existing rule is limited to residential customers, TCA opined that this limitation presumably recognizes that business customers are more sophisticated in their understanding and ability to question telephone bills. TCA further noted that customer inquiries concerning terms on their bills are rare even from residential customers and that expanding of the application is not warranted. TCA argued that OPC failed to show that business customers need such protection. To counter OPC's proposal to expand application of the rule, AT&T argued that it is just as plausible that Senator Fraser's floor amendment that struck the phrase "residential and small commercial customers" from HB 1822 was done so that the legislation would not apply to small commercial customers but be limited to residential as it is in the currently effective and proposed rule. AT&T commented that a change in the application of the rule to include business customers would increase costs and cause operational/billing system changes contrary to the intent of the legislation as expressed in Chairman Solomons' letters of clarification.

Verizon added that business customers are frequently billed by systems designed for multi-state business customers operating under one contract and imposing a Texas requirement would cause changes in billing business customers in every state. TEXALTEL noted that Chairman Solomons' July 14, 2009 letter pointed out that the issues surrounding passage of HB 1822 lie solely within the electric industry and offered that vagueness of the house bill gives the

commission the authority to address issues and apply regulation where it is needed and does not place an obligation on the commission to apply the rules where they are not needed. Sprint, TCA, and TWTC pointed out that companies that serve business customers have not been provided notice of any changes in rules that could affect them and that expansion of the rule to include the changes suggested by OPC would require republication. These commenters argued that the requirements of §26.25 are properly limited to residential customer bills and the commission should not in this proceeding adopt amendments to §26.21, relating to General Provisions for Customer Service and Protection Rules.

Although OPC agreed with other parties that the current rule made great strides towards ensuring phone bills were more consumer-friendly, OPC stated its belief that the rule should be expanded to apply to all customers (residential and business). In support of its position, OPC noted that during the March 10, 2009 House State Affairs Committee Meeting, Chairman Solomons specified that HB 1822 applied to “line items” on customer bills and that Chairman Fraser echoed this comment during the May 21, 2009 Senate Business and Commerce Meeting. OPC further noted that when the bill went to the Senate Floor for a vote on May 26, 2009 that Chairman Fraser offered an amendment that was accepted to remove “residential and small commercial customer” from Sections 1 and 4, thus making common terms applicable to all customers’ billing statements. OPC pointed out that Sections 2 and 3 of the bill already provided for use of common terms in all customers’ bills and did not differentiate between residential or small commercial customers’ bills. The rule, as published, amends only §26.25. OPC opined that the commission should consider amending the rules to do one or more of the following to follow HB 1822’s guidance and requirements: (1) repeat the proposed common terms in §26.5,

relating to Definitions, where general terms used throughout Chapter 26 are defined; (2) define the proposed common terms and require that they be used on all customers' bill by inserting these amendments into §26.21 relating to General Provisions of Customer Service and Protection Rules; or (3) amend §26.25 to apply its customer protections to all telecommunications customers.

Commission Response

A version of HB 1822 included language that would have applied the rule to each residential and small commercial bill instead of each retail bill, but Senator Fraser offered an amendment that was adopted to remove this language from the bill, and it ultimately passed without reference to small commercial bills. PURA §17.003(c) as amended by HB 1822 not only refers to retail bills, but also indicates that the purpose of the required commission rule is to facilitate “consumer” understanding. Both “retail” and “consumer” are terms often used in referring to residential customers. As many of the commenters explained, applying the rule to all customers, including not only residential customers but also small and large business customers, would substantially increase compliance costs and could be to some extent counterproductive because it could reduce uniformity in billing terms for a multi-state business that receives uniform bills from a service provider for service in multiple states. Furthermore, limiting the applicability to residential customers is consistent with the current rule’s limitation to residential customers.

Additional Defined Terms

AT&T opposed inclusion of the terms “charge,” “fee,” and “tax” in the rule and expressed the view that customers are not particularly confused by these terms and do not assign any particularly distinctive meaning to them. AT&T pointed out that *Webster’s Dictionary* defines “fee” as a “distinct charge” and concluded that the terms “fee” and “charge” are synonymous. AT&T opined that attempting to create a distinction between the terms would create confusion where none currently exists. AT&T, TCA, TTA, and Verizon opposed OPC’s recommendation to add nine additional terms to the rule. AT&T noted that OPC did not provide any contrary arguments or evidence to the conclusion in the preamble of the proposed rule that any additional benefits of a more expansive list of terms would be outweighed by the increased implementation costs. Verizon added that all of the terms that OPC suggested are unique tariffed services and CTUs have unique marketing names associated with packages and/or bundles that may include some of the nine services that OPC proposed. TCA pointed out that the terms to be defined in this rule are supposed to be terms “common” to the telecommunications industry and that the nine terms proposed by OPC are no longer, if ever, commonly used terms throughout the industry. TCA noted that it is unaware of any communication from Chairman Solomons that the commission’s proposed list of terms is in any way deficient.

OPC suggested that the published preamble terms of “charge,” “fee,” and “tax” be included in both §26.25 and in the definitions in §26.5. Additionally, OPC suggested that that the following terms and definitions, as presently defined on the commission’s website, be added to the rule relating to the bill content: (1) basic local service charge, (2) extended area service fee, (3) optional service charge, (4) directory assistance charge, (5) local toll charge; (6) long distance

charge, (7) pay-per-call service charges, (8) local number portability charge, and (9) expanded local calling service fee.

Commission Response

The commission agrees with AT&T that the rule need not attempt to distinguish the terms “charge,” “fee” and “tax.” Therefore, the commission removes these terms and does not adopt OPC’s recommendation to add these terms to the rule as definitions.

The commission agrees with the CTU parties that the nine additional terms proposed by OPC are not terms that are common to CTUs but are generally services that may be marketed by CTUs under other names. Therefore, the commission does not make any changes to the rule to incorporate these nine additional terms.

Use of Alternative Terms and Abbreviations

AT&T, JSI, Sprint, TCA, TEXALTEL, and TTA requested that the rule allow for the use of a limited number of acceptable alternative terms in addition to the defined term to minimize customer confusion and minimize costs associated with changing bills when the terms are already used and mean same thing. AT&T opined that this would be consistent with HB 1822 that requires that “applicable” terms be labeled “uniformly” rather than requiring that the terms be labeled exactly the same and would be consistent with Chairman Solomons’ indication that the overall intent of HB 1822 was that the terms be defined clearly and consistently. AT&T, JSI, TCA, TEXALTEL, TSTCI, and TTA offered that the rule should allow for the use of abbreviations of terms due to billing system restraints on field lengths, as well as different

capitalization of defined terms. JSI, TEXALTEL, and TTA added that some terms exceed the 23 character field length capacity of some small company billing systems. According to these commenters, the rule should allow the use of acceptable term abbreviations to accommodate these field length capacities, to reduce the need for CTUs to modify billing systems and incur significant costs to accommodate more characters. TCA added that some of TCA's members provide service in multiple states utilizing standardized billing systems and that making changes solely for bills sent to Texas customers would be a significant undertaking and require extensive and careful planning, execution, testing, and training with significant implementation and ongoing costs. TCA noted that it would be impossible to quantify the costs with precision but that it expected that the costs could be thousands or perhaps tens of thousands of dollars that would likely negatively impact customer rates.

OPC stated that it did not oppose the use of abbreviations but recommended that the abbreviations should be commission approved and included in the common terms and definitions on the websites of the commission and the CTUs. OPC also agreed with the parties that the commission rule should not be so restrictive as to disallow the use of upper-case or lower-case terms interchangeably. OPC opined that the allowance of alternative terms may lead to customer confusion and difficulty in customer comparison shopping. If the commission were to allow for alternative terms, then those alternative terms should be defined along with the common terms and delineated in the rule.

Commission Response

The commission agrees with the commenters that the rule should allow the use of abbreviated terms and different capitalization of terms. In order to meet HB 1822's objective of facilitating consumer understanding of relevant billing elements, the commission determines that the language should be standard among telecommunications bills and that the use of alternative terms should not be permitted. The commission modifies the rule accordingly.

Subsection (a)

TTA proposed that the term “telecommunications provider” be used instead of “CTU” in the descriptions as the CTU term is not familiar to customers. OPC agreed with TTA’s proposal to use the term “telecommunications provider.”

T-Mobile opposed the use of the term “telecommunications provider” in lieu of the term “CTU” and pointed out that the term “telecommunications provider” is a statutorily defined term at PURA §51.002(10) and has significantly broader application than the term “CTU” that would include CMRS providers. T-Mobile opined that CMRS service is explicitly exempted from regulation in PURA §51.003 and requested that the commission reject TTA’s proposal to expand jurisdiction beyond what was intended and expressed in HB 1822.

Commission Response

The commission appreciates OPC’s and TTA’s proposal to use the term “telecommunications provider” as being more familiar to customers than CTU but does

not adopt the suggestion. The current rule uses the term “certificated telecommunications utilities” as does HB 1822. The commission agrees with T-Mobile that the term “telecommunications provider” is a statutorily defined term that has significantly broader application than the term “CTU.” Therefore, the commission does not make any changes in response to these comments.

Subsection (e)(3)

JSI, TEXALTEL, TSTCI, and Verizon asked that the commission clarify that §26.25(e)(3) requires CTUs to use the list of terms but does not require CTUs to include the definitions on customer bills. A requirement to print the term as well as the definition of that term on a customer’s bill would create significant expense both in programming costs as well as costs associated with an increase in the amount of paper necessary to generate the bill and possible postage rate increases. The result would be more cumbersome for customers and not provide the simplicity envisioned by the legislation. JSI and TEXALTEL requested that the terms, along with alternatives and abbreviations, and definitions be posted on the commission’s website and that companies be allowed to direct customers to that centralized list for the definition of the terms. JSI proposed consideration of alternative language to be added as §26.25(e)(7) to clarify the intent. AT&T, TCA, TEXALTEL, TTA, and Verizon opposed OPC’s suggestion that CTUs be required to provide customers with a bill insert annually providing the terms and definitions. AT&T, TTA, and Verizon pointed to Chairman Solomons’ letter that suggested the common billing terms should be provided to consumers in a readily accessible manner such as in a “directory or online source” not in a duplicative and costly annual bill insert. Verizon stated that the commission already has a list of existing terms and definitions on its website under the broad

heading of “Consumer Fact Sheets, Charges on Your Telephone Bill” and suggested that this website could be updated to include the results of this project. AT&T and Verizon added that bill inserts are costly to produce, insert, and mail and would be inconsistent with Chairman Solomons’ guidance as to the intent of HB 1822 not to increase costs to the industry and ultimately to consumers. TCA opined that the rule would have to be republished in order to include the requirement for annual bill inserts.

TCA opposed JSI’s and TEXALTEL’s proposal to post the terms on the commission’s website and require CTUs to provide a link on customer bills to the website because this would require even more bill revisions resulting in additional economic burdens. TCA noted that definitions of terms are contained throughout the commission’s rules and requiring CTUs to provide links to some definitions but not others is unreasonable, especially in view of the increased costs.

OPC agreed with JSI, TEXALTEL, TSTCI, and Verizon that the terms and definitions need not be placed on every billing statement. OPC pointed out that in Project Number 37070, commission staff proposed providing the definitions of the terms on the utility’s website and opined that telecommunications service providers should be required to use defined terms on customer bills and post the terms on the utility’s website along with the definitions. OPC suggested that utilities be required to train their customer service representatives about the billing terminology and assist those customers without Internet access. OPC asked that the commission and OPC list the common terms and definitions on their customer-information websites and inform intake personnel of the location of these definitions to assist customers in reading their bills. In addition to listing the terms and definitions on its website, OPC encouraged the

commission to require each CTU to once annually send a bill insert that informs customers of the terms and definitions along with any additional terms that the CTU might utilize. OPC recognized the annual bill insert might have additional costs but offered that certain telecommunications expenses may not be avoidable as providing common terms is a legislative mandate.

Commission Response

The commission agrees with the CTU parties and OPC that the rule should be modified to clarify that the CTUs are not required to include the definitions of the terms on customer bills and modifies the rule accordingly.

The commission agrees that the commission's website "Consumer Fact Sheets, Charges on Your Telephone Bill" should be updated to include the results of this project but rejects the recommendation to require CTUs to modify billing systems to include a specific reference to the commission's website where these terms and definitions are listed. The commission concludes that, to the extent that a CTU has a website that explains customer bills, it must modify those websites to include the terms and definitions in this rule. The commission agrees that the benefits of the additional information to customers should be weighed against the costs, and it is not its intention to impose requirements that cause significant additional expenses for CTUs without customer benefits that outweigh those expenses. Based on commenters' discussions of the cost of bill inserts, the commission does not adopt OPC's recommendation to require CTUs to send annual bill inserts to its customers.

The commission believes that CTUs will adequately train their customer service representatives on billing terminology and continue assisting customers without Internet access, and the commission does not at this time need to amend the rule to include such requirements. If it becomes clear that there are inadequacies in the performance of customer services representatives, bill information, or providing assistance to customers by telephone and the Internet, the commission has the latitude to address such inadequacies in the future.

Subsection (e)(7)(A)

AT&T and TTA suggested that the word “tax” be omitted from the term “Federal excise tax” if the term is listed under a bill section entitled “Taxes” to avoid redundancy and permit CTUs to omit the potentially confusing word “excise” as part of alternative allowable terms.

Commission Response

The commission believes that standardization among providers is important, and therefore, does not agree with AT&T and TTA to omit the word “tax” from the term “Federal excise tax” if the term is listed under a bill section entitled “Taxes.” Also, the commission does not agree that CTUs should be allowed to use an alternate term that would exclude the word “excise.” Therefore, the commission makes no change in response to these comments.

Subsection (e)(7)(B)

JSI, TCA, and TTA proposed deletion of the last two sentences as not being needed to define the term “Federal subscriber line charge.” They argued that a discussion that highlights that CTUs

are not required to charge the subscriber line charge and how they may use the revenue from this charge is neither necessary nor appropriate for inclusion in the definition and could potentially confuse customers.

Commission Response

The commission agrees that the last two sentences are not needed to define the term but believes that further clarification of the charge is appropriate, and further clarification will help customers understand the purpose of the charge and will assist them in understanding why some CTUs charge it and others do not. Therefore, the commission makes no change in response to these comments.

Subsection (e)(7)(C)

JSI and TTA proposed deletion of the last two sentences as not being needed to define the term “Federal universal service fee” and state that inclusion in the definition could potentially confuse customers. JSI proposed that the definition be edited to include “low-income customers” in addition to schools, libraries, and rural health care providers.

Commission Response

The commission agrees that the last two sentences are not needed to define the term but believes that further clarification of the charge is appropriate and will help customers understand the purpose of the charge and will assist them in understanding why some CTUs charge it and others do not. Additionally, the commission believes that it is helpful for customers to know what regulatory agency is responsible for approving the level of the

fee. Therefore, the commission does not remove the last two sentences from the rule. The commission agrees with JSI that the definition should be edited to include a reference to low-income customers and modifies the rule accordingly.

Subsection (e)(7)(D)

AT&T, TCA, and Verizon proposed that the term “Late payment charge” be deleted as it is a commonly used term in all customer bills, from credit cards to mortgage statements, and is not unique to telecommunications services and does not concern or reflect a government or regulatory related fee, charge, or tax.

Commission Response

The commission agrees that the term “Late payment charge” is not unique to telecommunications services and is a commonly understood term on all customer bills. The commission modifies the rule to remove the term “Late payment charge” and renumbers the rule accordingly.

Subsection (e)(7)(F)

AT&T, JSI, TSTCI, TCA, TTA, and Verizon proposed deletion of the term “Municipal sales tax” as the term would incorrectly describe Texas sales taxes which are often some combination of state taxes, city taxes, other local entity taxes, transit authority taxes, and/or special purpose district taxes. AT&T, JSI, TTA, and Verizon added the tax is not separately itemized from state taxes and most companies are not able to separately identify the municipal tax without incurring significant costs to alter their billing systems and the creation of customer confusion. The

additional programming changes would be expensive and contrary to Chairman Solomons' intent. OPC agreed with parties to delete the term "Municipal sales tax."

Commission Response

The commission agrees with the CTU parties and OPC to delete the term "Municipal sales tax" and modifies and renumbers the rule accordingly.

Subsection (e)(7)(G)

AT&T proposed deletion of the term "PUC fee" as the Public Utility Regulatory Act §16.001(c) directs interexchange carriers but not CTUs to refer to this fee on customer bills as "utility gross receipts assessment."

Commission Response

PURA §16.001 states that the assessment applies to public utilities (ILEC CTUs) and interexchange telecommunications carriers (IXCs) but permits only IXCs to collect the fee from its customers through an additional bill item stated as a "utility gross receipts assessment." The fee is not assessed on CLEC CTUs as they do not meet the definition of public utility. While ILEC CTUs are assessed the fee, they are not permitted to collect the fee from their customers as an additional, separately stated bill item. As the term is not applicable to customer bills sent by CTUs to their customers, the commission modifies the rule to remove the term "PUC fee" and renumbers the rule accordingly.

Subsection (e)(7)(H)

AT&T, JSI, TSTCI, and TTA proposed that the word “fee” be deleted from the term “Texas universal service fee” as §26.420(f)(6)(A)(i), relating to the administration of the Texas universal service fund, mandates that this surcharge be listed on retail customer bills as “Texas Universal Service.” AT&T recommended that the reference to “Tel-Assistance” be deleted from this definition since that program was discontinued by HB 2156 on September 1, 2001. OPC agreed to delete the word “fee” from the term.

Commission Response

The commission agrees with the CTU parties and OPC to delete the word “fee” from the term as §26.420(f)(6)(A)(i) mandates that this surcharge be listed on retail customer bills as “Texas Universal Service.” The commission adopts AT&T’s recommendation to delete the reference to “Tel-Assistance” from the definition. The commission modifies the rule accordingly.

Subsection (e)(7)(I)

JSI and TTA proposed deletion of the last sentence as not being needed to define the term “9-1-1 fee” and stated that inclusion in the definition could potentially confuse customers. JSI also recommended that the hyphens be removed from the definition as small companies have never hyphenated the terms and the hyphens unnecessarily lengthen the field length on the customer bill.

Commission Response

The commission agrees that the last sentence is not needed to define the term but believes that further clarification of the charge is appropriate and will provide the customer with an understanding of the regulatory agency that is responsible for setting the fee level. The commission notes that various entities use the terms “9-1-1 fee” and “911 fee” interchangeably and modifies the rule to permit a CTU to use the term with or without hyphens.

Subsection (e)(7)(J)

JSI and TTA proposed deletion of the last two sentences as not being needed to define the term “9-1-1 equalization fee.” They argued that their inclusion in the definition could potentially confuse customers. JSI also recommended that the hyphens be removed from the definition as small companies have never hyphenated the terms and the hyphens unnecessarily lengthen the field length on the customer bill. JSI also pointed out that the proposed definition is missing the word “cost.”

Commission Response

The commission agrees that the last two sentences are not needed to define the term but believes that further clarification of the fee is appropriate and provides the customer with an understanding of the regulatory agency that is responsible for setting the fee level. The commission notes that various entities use the terms “9-1-1 equalization fee” and “911 equalization fee” interchangeably and modifies its rule to permit a CTU to use the term

with or without hyphens. The commission appreciates JSI pointing out the missing word “cost” and modifies the rule to correct this omission.

Subsection (g)

AT&T, JSI, Sprint, TCA, and TTA opposed the proposal to make the rule effective 90 days after approval. The parties raised concerns about the time frame to implement the changes to the content and format of bills due to a variety of implementation steps including software updates, billing system changes, and personnel training. JSI and TTA stated that the changes outlined in the proposed rule would require a minimum of 120 days after adoption to implement. If more extensive changes are made, then this timeframe would be negatively impacted. TCA argued that such changes typically take six or more months to successfully test and complete and asked that the commission reject changes to the rule requiring a 90-day implementation period and allow a six-month period for implementation. Sprint provided a very detailed outline of the steps involved in making the billing changes required by the rule and concluded that the information technology changes would require 9-12 months after adoption for an orderly implementation and urged the commission to extend the time for implementing this rule to 12 months. Sprint further noted that it utilizes a single invoice format for all states and it would need to design a Texas-specific invoice at a cost of roughly \$75,000. AT&T added that CTUs cannot begin the billing change process until a final rule is adopted and all requirements are fully known, and thus they cannot get a “head start” on the process. JSI, Sprint, and TCA offered that the rule should include a “good cause” waiver provision to allow CTUs additional time to implement the proposed changes. Sprint pointed out that PURA §17.004(b) and §64.004(b), dealing with Customer Protection Standards, allow the commission to “waive language requirements for good

cause.” If the commission believes that further specific authority for waiver is needed, Sprint recommended that such waiver authority be included in the adopted rule. TTA added that companies that provide telecommunications billing definitions in their directory will make any necessary changes at the first republication of the directory.

OPC agreed with commission’s staff proposed effective date of 90 days after adoption of the rule and disagreed with the parties’ purported need for six months to comply. OPC stated that it may be amenable to a temporary waiver for good cause but opposed any across-the-board permanent waiver. OPC noted that §26.23, relating to Refusal of Service, already allows the commission to make exceptions to Chapter 26 for good cause and it is not necessary to add a specific waiver position to this section.

Commission Response

The commission appreciates the CTUs concerns regarding the time to implement this rule. However, the commission believes that implementation of the rule amendment will not require the same level of bill reformatting as required when the existing rule was adopted. HB 1822 requires that the rule be adopted by December 1, 2009 and does not address the time required for implementation or the effective date of the rule. In recognition of the costs and time that CTUs have indicated will be required to change their billing systems, the commission is making the rule effective June 1, 2010. With this period for complying, the commission concludes that a good cause waiver is not needed as part of the rule.

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

The amendment is adopted under the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §14.002 (Vernon 2007 & Supp. 2009) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §17.001, which directs the commission to adopt and enforce customer protection rules; §17.003(c), which requires the commission to require CTUs to give clear and understandable information to customers about rates and to use a list of defined terms; §17.004(a), which provides that customers are entitled to bills that are presented in clear, readable and easy-to-understand language that uses terms defined in the rules adopted under §17.003; §17.102, which directs the commission to adopt and enforce rules requiring that charges on a CTU's bill be clearly and easily identified, using terms defined in the rules adopted under §17.003; and §55.016, which authorizes the commission to enforce a requirement bills for telecommunications services provide sufficient information for customers to understand the basis and source of the charges and identify all charges.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 17.001, 17.003(c), 17.004(a), 17.102, and 55.016.

§26.25. Issuance and Format of Bills.

- (a) **Application.** The provisions of this section apply to residential-customer bills issued by all certificated telecommunications utilities (CTUs).
- (b) **Purpose.** The purpose of this section is to specify the information that should be included in a user-friendly, simplified format for residential customer bills that include charges for local exchange telephone service.
- (c) **Frequency of bills and billing detail.** Bills of CTUs shall be issued monthly for any amount unless the bill covers service that is for less than one month, or unless through mutual agreement between the company and the customer a less frequent or more frequent billing interval is established. Through mutual agreement with the CTU, a customer may request and receive a bill with more detailed or less detailed information than otherwise would be required by the provisions of this section if the CTU also will provide the customer with detailed information on request.
- (d) **Billing information.**
 - (1) All residential customers shall receive their bills via the United States mail, or other mail service, unless the customer agrees with the CTU to receive a bill through different means, such as electronically via the Internet.
 - (2) Customer billing sent through the United States mail, or other mail service, shall be sent in an envelope or by any other method that ensures the confidentiality of the customer's telephone number and/or account number.

- (3) A CTU shall maintain by billing cycle the billing records for each of its accounts for at least two years after the date the bill is mailed. The billing records shall contain sufficient data to reconstruct a customer's billing for a given month. A copy of a customer's billing records may be obtained by the customer on request.
- (e) **Bill content requirements.** The following requirements apply to bills sent via the U.S. mail, or other mail service. Bills rendered via the Internet shall provide the information specified in this subsection in a readily discernible manner.
- (1) The first page of each residential customer's bill containing charges for local exchange telephone service shall include the following information, clearly and conspicuously displayed:
- (A) the grand total amount due for all services being billed;
 - (B) the payment due date; and
 - (C) a notification of any change in the identity of a service provider. The notification should describe the nature of the relationship with the customer, including the description of whether the new service provider is the presubscribed local exchange or interexchange carrier. For purposes of this subparagraph, "new service provider" means a service provider that did not bill the customer for services during the service provider's last billing cycle. This definition shall include only providers that have continuing relationships with the customer that will result in periodic charges on the customer's bill, unless the service is subsequently canceled. This notification may be accomplished with a sentence that directs the customers to details of this change located elsewhere on the bill.

- (D) If possible, the first page of the bill shall list each applicable telephone number or account number for which charges are being summarized on the bill. If such inclusion is not possible, the first page shall show the main telephone number or account number, and subsequent pages shall clearly identify the additional numbers.
- (2) Each residential customer's bill shall include the following information in a clear and conspicuous manner that provides customers sufficient information to understand the basis and source of the charges in the bill:
- (A) the service descriptions and charges for local service provided by the billing CTU;
 - (B) the service descriptions and charges for non-local services provided by the billing CTU;
 - (C) the service description, service provider's name, and charges for any services provided by parties other than the billing CTU, with a separate line for each different provider;
 - (D) applicable taxes, fees and surcharges, showing the specific amount associated with each charge;
 - (E) the billing period or billing end date; and
 - (F) an identification of those charges for which non-payment will not result in disconnection of basic local telecommunications service, along with an explicit statement that failure to pay these charges will not result in the loss of basic local service; or an identification of those charges that must be paid to retain basic local telecommunications service, along with an

explicit statement that failure to pay these charges will result in the loss of basic local service.

- (3) Charges must be accompanied by a brief, clear, non-misleading, plain-language description of the service being rendered. The description must be sufficiently clear in presentation and specific enough in content to enable customers to accurately assess the services for which they are being billed. Additionally, explanations shall be provided for any non-obvious abbreviations, symbols, or acronyms used to identify specific charges. The CTU shall use the term or acceptable abbreviation, in paragraph (7) of this subsection to the extent they apply to the customer's bill. If an abbreviation other than the acceptable abbreviation is used for the term, then the term must also be identified on the customer's bill. Terms and abbreviations may be completely capitalized, partially capitalized, not capitalized, hyphenated, or not hyphenated.
- (4) Charges for bundled-service packages that include basic local telecommunications service are not required to be separately stated. However, a brief, clear, non-misleading, plain-language description of the services included in a bundled-service package is required to be provided either in the description or as a footnote.
- (5) Each customer's bill shall include specific per-call detail for time-sensitive charges, itemized by service provider and by telephone or account number (if the customer's bill is for more than one such number). Each customer's bill shall include the rate and specific number of billing occurrences for per-use services, itemized by service provider and by telephone or account number. Additionally,

time-sensitive charges and per-use charges may be displayed as subtotals in summary sections of the bill.

- (6) Bills shall provide a clear and conspicuous toll-free number that a customer can call to resolve disputes and obtain information from the CTU. If the CTU is billing the customer for any services from another service provider, the bill shall identify the name of the service provider and provide a toll-free number that the customer can call to resolve disputes or obtain information from that service provider.
- (7) Defined terms.
 - (A) **Federal excise tax**--Federal tax assessed on non-usage sensitive basic local service that is billed separately from long distance service.
Acceptable abbreviation: Fed excise tax.
 - (B) **Federal subscriber line charge**--A charge that the Federal Communications Commission (FCC) allows a CTU to impose on its customers to recover costs associated with interstate access to the local telecommunications networks. The FCC does not require a CTU company to impose this charge, and the CTU does not remit the charge to the federal government. The charge may be used by the CTU to pay for a part of the cost of lines, wires, poles, conduit, equipment and facilities that provide interstate access to the local telecommunications network.
Acceptable abbreviation: Fed subscriber line chg.
 - (C) **Federal universal service fee**--A federal fee for a fund that supports affordable basic phone service to all Americans, including low-income

customers, schools, libraries, and rural health care providers. CTUs impose this fee to cover their required support for the fund. The fee is set by the FCC. Acceptable abbreviation: Fed universal svc fee.

(D) **Municipal right-of-way fee**--A fee used to compensate municipalities for the use of their rights-of-way. Acceptable abbreviation: Municipal ROW fee.

(E) **Texas universal service**--A state fee for a fund that supports affordable service to customers in high-cost rural areas, funds the Relay Texas service and related assistance for the hearing-disabled, and funds telecommunications services discounts for low-income customers (Lifeline). The fee is set by the Public Utility Commission.

(F) **9-1-1 fee**--A fee used to fund the 9-1-1 telephone network that allows callers to reach a public safety agency when they dial the digits "9-1-1." The amount of the fee varies by region and is set by the Texas Commission on State Emergency Communications.

(G) **9-1-1 equalization fee**--A fee used to provide financial support for regions where the 9-1-1 fee does not fully offset the cost of 9-1-1 service. The fee is imposed on each customer receiving intrastate long-distance service. The fee is set by the Texas Commission on State Emergency Communications.

(f) **Compliance review of bill formats.** A CTU shall file for review a copy of any portion of its bill format that has not previously been reviewed and approved by the commission pursuant to this section. The CTU will be advised if the format does or does not comply

with the requirements of this section. Two alternative projects will be established for such reviews. CTUs may submit new or altered bill formats in either of these projects as follows:

- (1) **Expedited review.** The commission staff shall establish a project for expedited reviews. CTUs may submit proposed new bills or bill format changes prior to implementation in the expedited review project. A notice of sufficiency or a notice of deficiency will be issued to the CTU within 15 business days. The CTU may appeal a notice of deficiency by requesting its submission be docketed for further review or may respond with a revised submission that corrects the deficiency within ten business days of the deficiency notice. The CTU's revised submission will be reviewed and either a notice of sufficiency or a notice of deficiency will be issued within 15 business days. This process will be repeated until the CTU's submission has received a notice of sufficiency or the CTU has requested that its submission be docketed as a contested case. A contested case may also be requested by commission staff to resolve disputes regarding the CTU's submission.
- (2) **Annual review.** The commission staff shall establish a project for annual reviews. CTUs may choose to file bill format changes in the annual review project. If the CTU's bill format change has already been approved pursuant to paragraph (1) of this subsection, the CTU does not need to file the same changes under the annual review process. Submissions for annual review must be made between September 1st and October 1st each year. All submissions shall be responded to with a notice of sufficiency or deficiency issued no later than

November 15th of that year. A CTU may appeal a notice of deficiency by requesting its submission be docketed for further review or may respond with a revised submission that corrects the deficiency within ten business days of the deficiency notice. Revised submissions will be reviewed within 15 business days and a new notice of either sufficiency or deficiency will be issued. This process will be repeated until the CTU's submission has received a notice of sufficiency or the CTU has requested that its submission be docketed as a contested case. A contested case may also be requested by commission staff to resolve disputes regarding the CTU's submission.

- (g) **Effective date.** The effective date of this section is June 1, 2010.

This agency hereby certifies that the adoption has 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 §26.25 relating to Issuance and Format of Bills is hereby adopted with changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS on the _____ day of November 2009.

PUBLIC UTILITY COMMISSION OF TEXAS

BARRY T. SMITHERMAN, CHAIRMAN

DONNA L. NELSON, COMMISSIONER

KENNETH W. ANDERSON, JR., COMMISSIONER