

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter R. PROVISIONS RELATING TO MUNICIPAL REGULATION AND RIGHTS-OF-WAY MANAGEMENT.

§26.461. Access Line Categories.

- (a) **Purpose.** This section establishes three competitively neutral, non-discriminatory categories of access lines for statewide use in establishing a uniform method for compensating municipalities for the use of a public right-of-way by certificated telecommunications providers (CTPs).
- (b) **Application.** The provisions of this section apply to CTPs, as defined by subsection (c)(2) of this section, and to municipalities in the State of Texas.
- (c) **Definitions.** The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise.
- (1) **Access lines –**
- (A) means a unit of measurement representing
- (i) each switched transmission path of the transmission media that is physically within a public right-of-way extended to the end-use customer’s premises within the municipality, that allows the delivery of local exchange telephone services within a municipality, and that is provided by means of owned facilities, unbundled network elements or leased facilities, or resale; or
- (ii) each termination point or points of a nonswitched telephone or other circuit consisting of transmission media located within a public right-of-way connecting specific locations identified by, and provided to, the end-use customer for delivery of nonswitched telecommunications services within the municipality; or
- (iii) each switched transmission path within a public right-of-way used to provide central office-based PBX-type services for systems of any number of stations within the municipality, and in that instance, one path shall be counted for every 10 stations served; or
- (iv) any other line not described in clauses (i), (ii) or (iii) of this subparagraph that provides voice service delivered by means of owned facilities, unbundled network elements or leased facilities, or resale.
- (B) The definition of “access line” may not be construed to include interoffice transport or other transmission media that do not terminate at an end-use customer’s premises or to permit duplicate or multiple assessment of access line rates on the provision of a single service.
- (2) **Certificated telecommunications provider (CTP) –** A person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the commission to offer local exchange telephone service or a person who provides voice service.
- (3) **Public right-of-way –** The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airways above a right-of-way with regard to wireless telecommunications.
- (4) **Residential –** Services provided at residential locations and primarily for residential (non-commercial) use. Definitions in the tariffs or price sheets of the provider, and the determinations made by provider for billing purposes shall control, unless the provider's definitions unreasonably depart from the general definition herein for purposes of avoidance of the payment of appropriate fees to the municipality.
- (5) **Non-Residential –** All other locations not served by a residential line.
- (6) **Voice service –** Voice communications services provided through wireline facilities located at least in part in the public right-of-way, without regard to the delivery technology, including Internet protocol technology. The term does not include voice service provided by a commercial mobile service provider as defined by 47 U.S.C. Section 332(d).

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- (d) **Access line categories.** There shall be three categories of access lines. The three categories shall be as follows:
- (1) Category 1 shall include both analog and digital residential switched access lines and any other access line that provides residential voice service. It shall also include point-to-point private lines, whether residential or non-residential, only to the extent such lines provide burglar alarm or other similar security services.
 - (2) Category 2 shall include all analog and digital non-residential switched access lines and any other access line that provides non-residential voice service.
 - (3) Category 3 shall include all other point-to-point private lines, whether residential or non-residential, not otherwise included within category 1.