

The Public Utility Commission of Texas (commission) adopts new §26.124, relating to Pay-Per-Call Information Services Call Blocking, with changes to the proposed text as published in the September 17, 1999, *Texas Register* (24 TexReg 7341). The new rule requires all dominant certificated telecommunication utilities (DCTUs), upon request, to block access to all pay-per-call information services when a call is placed to a 1-900-XXX-XXXX or 976-XXXX number. The rule is necessary to prevent unauthorized and expensive calls from being made from a customer's telephone. This new section is adopted under Project Number 17709.

The Appropriations Act of 1997, HB 1, Article IX, Section 167 (Section 167) requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Such reviews shall include, at a minimum, an assessment by the agency as to whether the reason for adopting or re-adopting the rule continues to exist. The commission held three workshops to conduct a preliminary review of its rules. As a result of these workshops, the commission is reorganizing its current substantive rules located in 16 Texas Administrative Code (TAC) Chapter 23 to (1) satisfy the requirements of Section 167; (2) repeal rules no longer needed; (3) update existing rules to reflect changes in the industries regulated by the commission; (4) do clean-up amendments made necessary by changes in law and commission organizational structure and practices; (5) reorganize rules into new chapters to facilitate future amendments and provide room for expansion; and (6) reorganize the rules according to the industry to which they apply. Chapter 26

has been established for all commission substantive rules applicable to telecommunications service providers.

The commission requested specific comments on the Section 167 requirement as to whether the reason for adopting or readopting the rule continues to exist. No comments were received on the Section 167 requirement. The commission finds that the reason for adopting the rule continues to exist.

The commission received comments on the proposed new section from GTE Southwest Incorporated (GTE).

GTE's primary recommendation was that the rule's free-blocking requirement not be extended beyond calls to a 1-900-XXX-XXXX or 976-XXXX number to include "any other pay-per-call service number," as specified in proposed §26.124(a). GTE contended that the rule contains no guidelines for determining which services the rule may encompass. In particular, GTE observed that "any other pay-per-call services" could include access to such services as internet access, or to "pay-per-call services accessed through 700 or 800 numbers that GTE has no way of knowing are pay-per-call services," some of which consumers may want to access while keeping 900 and 976 calls blocked. Similarly, GTE argued that proposed §26.124(c) is too broad for the same reason: GTE cannot know when or if some calls to a 700 or 800 number, upon completion, may direct the customer "to dial additional digits to activate an audio-text type service or be call-

forwarded to a 900 or 976 service." Consequently, GTE recommended that this subsection restrict access only to 900 and 976 pay-per-call services.

The commission accepts GTE's recommendation and modifies §26.124 to delete the references to "any other pay-per-call service number," so that the blocking requirements apply only to calls made to 900 or 976 numbers. Section 26.124 (a) and (b)(3) are modified accordingly. With these revisions, §26.124(c) need not be changed, because "the pay-per-call information services" referred to in this subsection include only the 900 and 976 services. These revisions mean that the definition of "pay-per-call information services" applied in §26.124 is consistent with the definition currently in §26.5(143); moreover, the application of the rule is now identical to that under its predecessor, §23.58.

GTE also recommended deleting §26.124(b)(3) because the paragraph is unnecessary. It requires the same access to services that a customer will have by default, unless the customer requests the blocking of calls to 900 or 976 numbers. The commission agrees that this provision of the rule does not change the default situation. Nevertheless, the provision does no harm, and it may provide some reassurance to customers who wish to retain access to 900 and 976 numbers. Therefore, the commission declines to delete the paragraph.

The commission is making a clarifying change to subsection (a), as well as limited stylistic and grammatical changes to the text of the proposed rule. These changes do not alter the substance of the rule.

This new section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (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 §52.002(a), which grants the commission authority to ensure the adequacy and efficiency of services provided by a telecommunications utility, and §55.002(1), which authorizes the commission to adopt just and reasonable rules and practices a public utility must follow in furnishing a service.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 52.002, and 55.002.

§26.124. Pay-Per-Call Information Services Call Blocking.

- (a) **Free blocking.** Within 90 days of being declared a dominant carrier, all dominant certificated telecommunications utilities (DCTUs) are required, upon request from the end user only, to block access to all pay-per-call information services when a call is placed to a 1-900-XXX-XXXX or 976-XXXX number. There will be no charge to the end user for the first blocking request when pay-per-call information service blocking is first installed on the end user's line. However, there may be a non-recurring charge applicable for subsequent blocking requests, if prior blocking has been removed and is being reinstated.
- (b) **Subscription to blocking.**
- (1) **End users not currently receiving blocking.** To restrict access to pay-per-call information services, end users must order blocking either orally or by using a written ballot. Within 60 days of being declared a DCTU, each DCTU must notify its end users of the free blocking opportunity and send a post-paid ballot to all existing end users (either through bill inserts or a separate mailing) allowing them to choose whether they want to restrict access to pay-per-call information services.
- (2) New end users must be offered free blocking of pay-per-call information service calls at the time of their service order. There will be no charge to the end user for

the first blocking request, but there may be a non-recurring charge applicable for subsequent blocking requests.

- (3) End users electing not to restrict access to pay-per-call information services will have access to all 900 and 976 pay-per-call information services available in their service area.

- (c) **Mandatory blocking.** In areas where restricting access to pay-per-call information services on a selective, per-line basis is not technically possible, all access to the pay-per-call information services must be blocked.

- (1) End users whose access to pay-per-call information services is blocked pursuant to this provision shall be notified prior to the time of the blocking that such blocking will take place, the fact that such blocking is being done pursuant to this section, and that such blocking is required due to the fact that restriction of access to such services is not technically possible at that time.

- (2) Once an area that has been mandatorily blocked attains the technological capability to provide per-line blocking, the DCTU shall provide the notice and balloting procedures set out in subsections (a) and (b) of this section. A blocking request from the end user received thereafter by the DCTU shall be treated as an initial blocking request and implemented without charge.

- (d) **Disconnection.** A DCTU may not disconnect an end user's local telephone service for nonpayment of charges for pay-per-call information service. A DCTU may implement

involuntary blocking of pay-per-call information service for nonpayment of charges for pay-per-call information service.

- (e) **Compliance.** Within 45 days of being declared a DCTU, each DCTU shall file tariffs in compliance with this section. The compliance tariffs will be reviewed by staff. Within 35 days of the date of filing of the tariffs, the tariffs will either be approved or the effective date of the tariff will be suspended for further review.

This agency hereby certifies that the rule, as adopted, 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 rule §26.124 relating to Pay-Per-Call Information Services Call Blocking is 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