

The Public Utility Commission of Texas (the commission) proposes 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). The proposed rule amendments will implement the provisions of Senate Bill 86, 76th Legislature (1999), Public Utility Regulatory Act (PURA) §55.012, and Senate Bill 560, 76th Legislature (1999) PURA §55.013, *Limitations on Discontinuance of Basic Local Telecommunications Service*. Project Number 21030 has been assigned to this proceeding.

PURA §55.012 and §55.013 provisions: (1) prohibit discontinuance of basic local service for nonpayment of long distance charges, (2) require that payment first be applied to 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 an incumbent 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 these proposed amendments. The proposed 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 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 state the specific amount owed for basic local telephone service.
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 basic local telephone service.
10. Allow toll blocking of residential applicants for failure to establish credit and of residential customers 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 option to receive basic local telephone service without entering PLTS if the customer does not owe for basic local telephone service charges.

Several issues surfaced at the July 19, 1999 workshop and are discussed below.

#### *Scope of Implementation*

Most telecommunications industry representatives recommended limiting the rulemaking to the specific language in PURA §55.012 and §55.013. In their view, the rulemaking should address only disconnection of existing customers and not refusal of service for applicants or deposit requirements. However, 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 readily accessible. Thus, including applicants and deposits in the rulemaking is consistent with the provisions in PURA §55.012 and §55.013.

*Jurisdiction*

Some parties indicated that some of the areas contemplated in the rulemaking such as refusal of service and deposit provisions should apply only to incumbent local exchange companies (ILECs) and not competitive local exchange companies (CLECs). The commission does have jurisdiction over CLECs 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.

*Impact on Prepaid Local Telephone Service (PLTS)*

There was agreement at the workshop that the commission should continue PLTS. However, with the implementation of PURA §55.012 and §55.013 in these proposed amendments, PLTS appears to have very limited applicability. PLTS provides customers with an outstanding balance for local service with the option to continue receiving local service by entering into a deferred payment plan under PLTS. PURA §55.012 and §55.013 do not specifically provide this option, but they do not preclude it either. The commission requests specific comments as to continuing the PLTS rule or amending other rules to permit repealing PLTS without sacrificing current customer protections.

*Toll Blocking*

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.

PURA §55.012(d) and §55.013(d) require the commission to adopt a maximum price that a LEC may charge a long distance service provider to initiate toll blocking. The proposed amendment to §26.28(j)(2) sets a maximum \$10 nonrecurring installation charge and a maximum \$1.50 monthly charge for toll blocking. These proposed rates, taken from the retail tariff of a major Texas LEC, strike a balance between the long distance provider's interest in a minimal monthly charge and the LEC's interest in recovering notice expenses through a nonrecurring charge.

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.

Mr. John S. Capitano, Jr., Senior Investigator, Office of Customer protection, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Capitano has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be the establishment of rights and responsibilities for both telecommunications utilities and customers regarding providing and receiving basic local telephone service. There will be no effect on small businesses or micro-businesses as a result of enforcing these sections. There may be anticipated economic cost to persons who are required to comply with the sections as proposed.

Mr. Capitano has also determined that for each year of the first five years the proposed sections are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking under Government Code §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on October 18, 1999, at 9:30 a.m.

Comments on the proposed amendments (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted by October 18, 1999. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and benefits in deciding whether to revise the proposed amendments or

adopt the proposed amendments as published. All comments should refer to Project Number 21030.

These amendments are proposed 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-Index 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) - (c) (No change.)

**§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) - (4) (No change.)

- (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 [~~local exchange carrier~~] 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 [~~if federal authority prohibits payment of long distance charges as a condition for local service, or prohibits disconnection of local service for failure to pay long distance charges~~].
- (6) (No change.)
- (b) (No change.)
- (c) **Insufficient grounds for refusal to serve.** The following are not sufficient cause for refusal of service to an applicant:
- (1) - (2) (No change.)
- (3) failure to pay a bill that includes more than six months of underbilling unless the underbilling is the result of theft of service; [~~and~~]

(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) - (e) (No change.)

**(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 including long distance charges for nonresidential applicants and customers only where the provider of basic local telephone service [~~local exchange carrier~~] bills those charges to the customer pursuant to its tariffs. [~~Such charges shall not be included in calculating the deposit amount if federal authority so prohibits, or prohibits long distance charges as a condition for local service or as a reason for disconnection of local exchange service.~~]

(2) (No change.)

(3) Estimated billings to determine the deposit amount shall not include long distance charges for residential applicants and customers.

(g) - (m) (No change.)

**§26.27. Bill Payment and Adjustments.**

(a) - (i) (No change.)

(j) Partial payments. Payment shall first be allocated to basic local telephone service.

**§26.28. Suspension or Disconnection of Service.**

(a) (No change.)

(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 [~~local exchange carrier~~] bills those charges to the customer pursuant to its tariffs or make deferred payment arrangements by the date of suspension or disconnection;

(2) - (3) (No change.)

(4) failure to pay a deposit as required by §26.24 of this title (relating to Credit Requirements and Deposits);~~[-or]~~

(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) - (2) (No change.)

(3) where there are instances of tampering with the utility company's equipment, ~~or~~ 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) - (2) (No change.)

(3) failure to pay charges resulting from underbilling that is more than six months before the current billing, except for theft of service; ~~or~~

(4) failure to pay disputed charges until a determination is made on the accuracy of the charges; or ~~or~~

(5) failure of a residential customer to pay long distance charges.

(e) - (g) (No change.)

(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 basic local telephone service required to maintain basic local telephone service; and

(6) [ (5) ] 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) a residential applicant for failure to establish credit; or

(B) 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) - (b) (No change.)

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

(1) (No change.)

(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) - (G) (No change.)

(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; [~~and~~]

(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 option to receive basic local telephone service without entering PLTS if the customer does not owe for basic local telephone charges.

(d) (No change.)

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

(1) - (3) (No change.)

(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 [basic] 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) - (B) (No change.)

(5) - (6) (No change.)

(f) - (j) (No change.)

(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) [~~§23.24 of this title (relating to Form and Filing of Tariffs)~~].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 27th DAY OF AUGUST 1999 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
RHONDA G. DEMPSEY**