

PROJECT NO. 27450

PETITION OF PAULINO AVINA FOR	§	PUBLIC UTILITY COMMISSION
RULEMAKING REGARDING	§	
CHARGES FOR	§	OF TEXAS
TELECOMMUNICATIONS SERVICES	§	
TO PEOPLE IN CORRECTIONAL	§	
INSTITUTIONS	§	

ORDER DENYING PETITION

On February 27, 2003, Paulino Avina petitioned the Commission to consider developing a rule to prevent excessive or abusive charges for telecommunications services to people in correctional institutions. He requested that the rule take affect when such charges exceed a generally accepted price in the community and that the rule provide for retroactive review of rates and reimbursement.

Mr. Avina's request was docketed as a petition for rulemaking subject to the provisions of TEX. GOV'T. CODE §2001.021 and P.U.C. PROC. R. 22.281. Consistent with P.U.C. PROC. R. 22.281(a)(1), notice of Mr. Avina's petition was published for comment in the *Texas Register* on March 14, 2003 with a comment deadline of April 4, 2003.

Comments were received from Evercom Systems, Inc. (Evercom); MCImetro Access Transmission Services, LLC, MCI WorldCom, Inc., Brooks Fiber Communications of Texas, Inc. (collectively MCI); Office of Public Utility Counsel (OPC), Texas Telephone Association (TTA), Brazoria Telephone Company and Coleman County Telephone Cooperative, Inc. (collectively Brazoria), Southwestern Bell Telephone, L.P. (SBC), and Verizon Southwest (Verizon). OPC and Brazoria commented in favor of the petition, while the other commenters recommended denying the petition.

The Commission has considered Mr. Avina's contention that the rates for telecommunications services to people in correctional institutions are excessive. The Commission finds that its rules ensure that the rates for collect calls placed from correctional institutions do not exceed the highest applicable rate for such calls for any of the four largest interexchange carriers operating in Texas. P.U.C. SUBST. R. 26.346(b)(1)(D). Thus, under present rules, the rates for collect calls from correctional institutions may not lawfully be in

excess of the rates permitted for similar calls placed in Texas from locations other than correctional institutions. There is simply no need for an additional rule to set rates for telecommunications services to people in correctional institutions. Further, in the event that someone believes that rates are in excess of what are permitted by the Commission's rules, they may file a complaint pursuant to P.U.C. PROC. R. 22.242 requesting the Commission to enforce compliance with its rules.

After considering the petition, applicable law, and comments received, the Commission has determined that there are adequate substantive and procedural rules in place to address Mr. Avina's concerns: P.U.C. SUBST. R. 26.346 and P.U.C. PROC. R. 22.242. Therefore, Mr. Avina's petition is denied. Nevertheless, the Commission will initiate a rulemaking to consider amending § 26.346 to clarify the rule and to require annual review of the rates stated in that rule to ensure that those rates comply with § 55.175 of the Public Utility Regulatory Act. TEX. UTIL. CODE ANN. §55.175 (Vernon 2000 & Supp. 2003).

SIGNED AT AUSTIN, TEXAS the 28th day of April 2003.

PUBLIC UTILITY COMMISSION OF TEXAS

REBECCA KLEIN, CHAIRMAN

BRETT A. PERLMAN, COMMISSIONER

JULIE PARSLEY, COMMISSIONER