

**PROJECT NO. 26412**

**RULEMAKING TO AMEND P.U.C. § PUBLIC UTILITY COMMISSION  
SUBSTANTIVE RULE 26.465 §  
§ OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §26.465 AS  
APPROVED AT THE SEPTEMBER 12, 2002 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §26.465, relating to Methodology for Counting Access Lines and Reporting Requirements for Certificated Telecommunications Providers. The proposed amendments will clarify the definition of "transmission path," eliminate the reference to the Tel-Assistance program, and delete the reporting requirements in this section. Project Number 26412 is assigned to this proceeding.

The proposed amendment to the definition of "transmission path" accounts for new switching technologies, thereby clarifying which access lines a certificated telecommunications provider (CTP) shall include in quarterly access line reporting. The proposed amendments to §26.465(c)(2) simplify the language to indicate that switched services include, but are not limited to, circuit-switched and packet-switched services. The Tel-Assistance program was repealed by House Bill (HB) 2156, 77th Legislature (2001 Texas General Laws 5160), Relating to Eligibility Process for Certain Utility Customer Discounts, Public Utilities Regulatory Act (PURA) §55.015. Therefore, the commission proposes to delete the reference to the Tel-Assistance program in §26.465(e)(8), consistent with amendments previously proposed by the commission in Project Number 26135, *Rulemaking Proceeding to Amend Rules Referencing Tel-*

*Assistance.* In addition, in Project Number 25433, *Rulemaking to Address Municipal Authorized Review of Access Line Reporting*, pursuant to HB 1777, 76th Legislative Session, the commission is simultaneously proposing a rulemaking to amend §26.467, relating to Rates, Allocation, Compensation, Adjustments and Reporting, to add and amend the reporting requirements proposed for deletion in this project from §26.465(g). The proposed amendments to the reporting requirements in §26.467 delete obsolete provisions and consolidate reporting requirements.

Hayden Childs, Senior Policy Analyst, Telecommunications Division, and Michelle Lingo, Senior Attorney, Policy Development Division, have determined that for each year of the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Hayden Childs and Michelle Lingo have determined that for each year of the first five years the proposed amendments are in effect the public benefit anticipated as a result of enforcing the section will be: 1) clarification of the existing definition of "transmission path;" 2) consistency with the legislative mandate found in HB 2156; and 3) clarification of the reporting requirements of Texas Local Government Code, Chapter 283. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed for amendment.

Hayden Childs and Michelle Lingo have also determined that for each year of the first five years the proposed amendments 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.

These conclusions are reasonable and justified because the amendments merely clarify an existing rule, reflect the repeal of the Tel-Assistance program, and consolidate reporting requirements.

The commission staff will conduct a public hearing on this rulemaking under the Administrative Procedure Act, Texas Government Code, §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, in the Commissioner's Hearing Room on Wednesday, December 4, 2002 at 9:30 a.m. Please note that the public hearing in Project Number 25433, *Rulemaking to Address Municipal Authorized Review of Access Line Reporting*, pursuant to HB 1777, will immediately follow.

Comments on the proposed amendment (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 within 45 days after publication. Electronic copies should be included with the filings. Comments should be organized in a manner consistent with the organization of the proposed amendments. The commission invites specific comments regarding the

costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission specifically requests comments regarding whether digital subscriber line (DSL) service delivered over the same physical path as switched voice-grade local exchange service constitutes a separate transmission path and specifically requests submission of suggested rule amendment language, if any. The commission will consider the costs and benefits in deciding whether to adopt the amendments. All comments should refer to Project Number 26412.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2002) (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, House Bill 2156, 77th Legislature, which repealed the Tel-Assistance program, and Texas Local Government Code, §283.058, which grants the commission the jurisdiction over municipalities and CTPs necessary to enforce the whole of Chapter 283 and to ensure that all other legal requirements are enforced in a competitively neutral, non-discriminatory, and reasonable manner.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §55.015 and Texas Local Government Code §283.058.

**§26.465. Methodology for Counting Access Lines and Reporting Requirements for  
Certificated Telecommunications Providers.**

(a) - (b) (No change.)

(c) **Definitions.** The following words and terms when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) (No change.)

(2) **Transmission path** — A path within the transmission media that allows the delivery of switched local exchange service.

(A) Each individual switched ~~circuit-switched~~ service shall constitute a single transmission path.

(B) Where services are offered as part of a bundled group of services, each switched service in that bundled group of services shall constitute a single transmission path.

~~(C) Only those services that require the use of a circuit switch shall constitute a switched service.~~

~~(C)~~~~(D)~~ Services that constitute vertical features of a switched service, such as call waiting, caller-ID, etc., that do not require a separate switched path, do not constitute a transmission path.

~~(D)~~~~(E)~~ Where a service or technology is channelized by the CTP and results in a separate switched path for each channel, each such channel shall constitute a single transmission path.

(3) (No change.)

(d) (No change.)

(e) **Lines to be counted.** A CTP shall count the following access lines:

(1) - (7) (No change.)

(8) Lifeline ~~and Tel-assistance~~ lines.

(f) (No change.)

(g) **Reporting procedures and requirements.**

~~(1) **Who shall file.** The record keeping, reporting and filing requirements listed in §26.467 of this title (relating to Rates, Allocation, Compensation, Adjustments and Reporting) this section shall apply to all CTPs in the State of Texas.~~

~~(2) **Reporting requirements.** Unless otherwise specified, periodic reporting shall be consistent with this subsection and subsection (d) of this section.~~

~~(A) **Initial reporting.**~~

~~(i) No later than January 24, 2000, a CTP shall file its access line count using the commission approved *Form for Counting Access Line or Program for Counting Access Lines* with the commission. The CTP shall report the access line count as of December 31, 1998, except as provided in clause (iii) of this subparagraph.~~

~~(ii) A CTP shall not include in its initial report any access lines that are resold, leased, or otherwise provided to a CTP, unless it has agreed to a request from another CTP to include resold or leased lines as part of its access line report.~~

~~(iii) A CTP that cannot file access line count as of December 31, 1998 shall file request for good cause exemption and shall file the most recent access line count available for December, 1999.~~

~~(iv) A CTP shall not make a distinction between facilities and capacity leased or resold in reporting its access line count.~~

~~(B) Subsequent reporting.~~

~~(i) Each CTP shall file with the commission a quarterly report beginning the second quarter of the year 2000, showing the number of access lines, including access lines by category, that the CTP has within each municipality at the end of each month of the quarter. The report shall be filed no later than 45 days after the end of the quarter using the commission approved Form for Quarterly Reporting of Access Lines and shall coincide with the payment to a municipality.~~

~~(ii) The first report shall be due to the commission no later than August 15, 2000 and shall include access line for the second calendar quarter of 2000 and shall coincide with the first payment to a municipality pursuant to the Local Government Code, Chapter 283.~~

~~(iii) Except as provided in clause (iv) of this subparagraph, on request of the commission, and to the extent available, the report filed under clause (i) of this subparagraph shall identify, as part of the CTP's monthly access line count, the access lines that are~~

~~provided by means of resold services or unbundled facilities to another CTP who is not an end-use customer, and the identity of the CTPs obtaining the resold services or unbundled facilities to provide services to customers.~~

~~(iv) A CTP may not include in its monthly count of access lines any access lines that are resold, leased, or otherwise provided to another CTP if the CTP receives adequate proof that the CTP leasing or purchasing the access lines will include the access lines in its own monthly count. Adequate proof shall consist of a notarized statement prepared consistent with subsection (k) of this section.~~

~~(v) The CTP shall respond to any request for additional information from the commission within 30 days from receipt of the request.~~

~~(vi) Reports required under this subsection may be used by the commission only to verify the number of access lines that serve customer premises within a municipality.~~

~~(vii) On request from a municipality, and subject to the confidentiality protections of subsection (j) of this section, each CTP shall provide each affected municipality with a copy of the municipality's access line count.~~

(h) - (m)

(No change.)

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 16th DAY OF SEPTEMBER 2002 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
RHONDA G. DEMPSEY**