

PROJECT NO. 41609

RULEMAKING TO AMEND	§	PUBLIC UTILITY COMMISSION
SUBSTANTIVE RULES RELATING	§	
TO TELECOMMUNICATIONS TO	§	OF TEXAS
CONFORM TO 2013	§	
LEGISLATION	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO
§§26.5, 26.22, 26.23, 26.25, 26.27, 26.28, 26.30, 26.31, 26.34, 26.51, 26.52, 26.53, 26.73,
26.79, 26.80, 26.85, 26.89, 26.123, 26.128, 26.133, 26.142, 26.143, 26.211, 26.225, 26.226,
26.227, 26.228, 26.229, 26.230, 26.272, 26.311, 26.313, 26.317, 26.319, 26.321, 26.342,
26.406, 26.417, 26.418, 26.420, 26.421, 26.422, 26.423, AND THE REPEAL OF 26.431
AS APPROVED AT THE NOVEMBER 15, 2013 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §§26.5, 26.22, 26.23, 26.25, 26.27, 26.28, 26.30, 26.31, 26.34, 26.51, 26.52, 26.53, 26.73, 26.79, 26.80, 26.85, 26.89, 26.123, 26.128, 26.133, 26.142, 26.143, 26.211, 26.225, 26.226, 26.227, 26.228, 26.229, 26.230, 26.272, 26.311, 26.313, 26.317, 26.319, 26.321, 26.342, 26.406, 26.417, 26.418, 26.420, 26.421, 26.422, 26.423, and the repeal of 26.431. The amendments will amend commission substantive rules relating to telecommunications service to conform to 2013 legislation, which includes Senate Bills 259, 512, 583, and 809 of the 83rd Legislature, Regular Session (Telecom Legislation). Project Number 41609 is assigned to this proceeding.

Fred Goodwin, Competitive Market Analyst, Competitive Markets Division, has 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 amendments.

Mr. Goodwin has 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 amendments will be in compliance with Senate Bills 259, 512, 583, and 809. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing these amendments. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed.

Mr. Goodwin has also determined that for each year of the first five years the proposed amendments are in effect, there should be no effect on the local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking if requested pursuant to the APA, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for public hearing must be received within 20 days after publication.

Comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Monday, December 23, 2013. Reply comments are due Friday, January 6, 2014. Sixteen copies of comments to the proposed amendments are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent

with the organization of the amended rule. All comments should refer to Project Number 41609.

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2013) (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 the amendments to PURA made by Senate Bills 259, 512, 583, and 809 of the 83rd Legislature, Regular Session.

Cross Reference to Statutes: PURA §14.002 and the amendments to PURA made by Senate Bills 259, 512, 583, and 809 of the 83rd Legislature, Regular Session.

§26.5. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context indicates otherwise:

(1) - (146) (No change.)

(147) Minor rate change -- A change, including the restructuring of rates of existing services, that decreases the rates or revenues of the small local exchange company (SLEC) or that, together with any other rate or proposed or approved tariff changes in the 12 months preceding the date on which the proposed change will take effect, results in an increase of the SLEC's total regulated intrastate gross annual revenues by not more than 5.0%. Further, with regard to a change to a basic local access line rate, a minor change may not, together with any other change to that rate that went into effect during the 12 months preceding the proposed effective date of the proposed change, result in an increase of more than 50%.

(148) - (155) (No change.)

(156) Nondominant carrier --

(A) - (B) (No change.).

(C) A deregulated company that holds a COA.

(157) - (177) (No change.)

(178) Pricing flexibility -- Discounts and other forms of pricing flexibility may not be preferential, prejudicial, or discriminatory. Pricing flexibility includes:

(A) - (B) (No change.)

(C) zone density pricing, with zone to be defined as an exchange;

(D) - (E) (No change.)

(179) - (288) (No change.)

§26.22. Request for Service.

(a) (No change.)

(b) **Nondominant certificated telecommunications utility (NCTU).**

(1) This subsection does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under PURA §52.154.

(2)(+) Every NCTU shall provide local telecommunications service to applicants within its certificated area who have accepted the NCTU's terms and conditions of service and in accordance with the customer safeguards in §26.272(i) of this title (relating to Interconnection).

(3)(2) If construction, such as line extensions or facilities, is required for installation of local telecommunications service:

(A) the NCTU shall contact the applicant for service within ten work days of receipt of the application and give the applicant an estimated completion date and an estimated cost for all charges to be incurred by the applicant; and

(B) following the assessment of any necessary construction, the NCTU shall explain to the applicant any construction cost options such as rebates, sharing of construction costs between the NCTU and the applicant, or sharing of costs between the applicant and other applicants.

§26.23. Refusal of Service.

(a) (No change.)

(b) **Nondominant certificated telecommunications utility (NCTU).**

(1) This subsection does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under PURA §52.154.

~~(2)~~(4) An NCTU may refuse to provide an applicant with basic local telecommunications service for:

- (A) the applicant's failure to comply with all applicable federal, state, and municipal regulations; or
- (B) any other reason that does not violate applicable federal, state, or municipal statutes, rules, or regulations.

~~(3)~~(2) **Applicant's recourse.**

(A) If an NCTU who offers residential service has refused to provide a residential applicant with basic local telecommunications service, the NCTU must inform the applicant of the determination to refuse service:

- (i) of the reason or reasons for its refusal; and

- (ii) that the applicant will be eligible for service if the applicant remedies the reason or reasons for refusal and complies with the NCTU's terms and conditions of service.
- (B) The information required by subparagraph (A) of this paragraph shall be sent to the applicant in writing within five working days, if required by the federal Equal Credit Opportunity Act, 15 U.S.C. §1691 et seq., or if it is requested by the applicant. The NCTU shall inform the applicant that the applicant may request a supervisory review by the NCTU and may file a complaint with the commission as escribed in §26.30 of this title.

~~(4)(3)~~ **Insufficient grounds for refusal to serve.** The following are not sufficient grounds for refusal of basic local telecommunications service to an applicant by an NCTU:

- (A) delinquency in payment for service by a previous occupant of the premises to be served;
- (B) failure to pay for any charges that are not provided in the NCTU's tariffs;
- (C) failure to pay a bill that includes more than six months of underbilling unless the underbilling is the result of theft of service by the applicant;
- (D) failure to pay the bill of another customer at the same address except where the change of account holder and billing name is made to avoid or evade payment of that bill; and

- (E) failure of a residential applicant to pay for any charges other than for local telecommunications service except for long distance charges incurred after toll blocking was imposed as provided in §26.28 of this title.

§26.25. Issuance and Format of Bills.

- (a) **Application.** The provisions of this section apply to residential-customer bills issued by all certificated telecommunications utilities (CTUs). Only subsections (d)(3), (e)(1)(C) and (e)(7) of this section apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications under PURA §52.154.

- (b) - (g) (No change.)

§26.27. Bill Payment and Adjustments.

(a) (No change.)

(b) **Nondominant certificated telecommunications utility (NCTU).**

(1) **Application:** Only paragraphs (3), (5) and (6) of this subsection apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under PURA §52.154.

(2)(+) **Bill due date.** The bill provided to the customer shall include the payment due date, which shall not be less than 16 days after issuance.

(A) The issuance date is the postmark date on the envelope containing the bill or the issuance date on the bill if there is no postmark or envelope.

(B) Payment for service is delinquent if not received at the NCTU or at the NCTU's authorized payment agency by close of business on the due date.

(C) If the sixteenth day falls on a holiday or weekend, then the due date shall be the next work day after the sixteenth day.

(D) If the due date shown on the bill falls on a holiday or weekend, an NCTU shall include a statement on the bill or in the terms and conditions of service that informs the customer that the due date is extended to the next work day.

(3)(2) **Penalty on delinquent bills for retail service.** An NCTU providing any service to the state, including service to an agency in any branch of

government, shall not assess a fee, penalty, interest, or other charge to the state for delinquent payment of a bill.

~~(4)(3)~~ **Billing adjustments.**

(A) **Overbilling.** If charges are higher than the NCTU's tariff, schedule, or price list terms and conditions of service, or a customer-specific contract, an appropriate refund shall be made to the customer:

- (i) The refund shall be made for the entire period of the overbilling.
- (ii) If the overbilling is corrected within three billing cycles of the initial bill in error, interest is not required to be paid on the overcharge.
- (iii) If the overbilling is not corrected within three billing cycles of the initial bill in error, interest shall be paid on the amount of the overcharges. The minimum interest to be paid shall be based on the rate set by the commission on December 1 of the preceding year, compounded monthly, and accruing from the date of payment or the initial date of the bill in error.
- (iv) The refund may be made by a credit on a subsequent bill, unless the customer requests otherwise.

(B) **Underbilling.** If charges are found to be lower than authorized by the NCTU's tariff, schedule, or price list, terms and conditions of service,

or a customer-specific contract, or if the NCTU failed to bill the customer for service, then:

- (i) The customer may be backbilled for the amount that was underbilled for no more than six months from the date the initial error was discovered unless underbilling is a result of theft of service by the customer.
- (ii) Service may be disconnected if the customer fails to pay charges arising from an underbilling.
- (iii) If the underbilling is \$50 or more, the NCTU shall offer the customer a payment plan option for the same length of time as that of the underbilling. A payment plan need not be offered to a customer whose underpayment is due to theft of service.
- (iv) Interest on underbilled amounts shall:
 - (I) not be charged unless such amounts are found to be the result of theft of service by the customer; and
 - (II) not exceed an amount based on the rate set by the commission on December 1 of the preceding year, compounded monthly, and accruing from the day the customer is found to have first tampered with, bypassed, or diverted service.

(5)(4) Disputed bills. If there is a dispute between a customer and an NCTU about any bill for NCTU service, the NCTU shall:

- (A) investigate and report the results to the customer; and

(B) inform the customer of the complaint procedures of the commission in accordance with §26.30 of this title if the dispute is not resolved.

~~(6)(5)~~ **Notice of alternative payment programs or payment assistance.** When a customer contacts an NCTU and indicates inability to pay a bill or need of assistance with payment, the NCTU shall inform the customer of any alternative payment options and payment assistance programs available to the customer.

~~(7)(6)~~ **Residential partial payments.** Residential service payment shall first be allocated to basic local telecommunications service.

(c) (No change.)

§26.28. Suspension or Disconnection of Service.**(a) Dominant certificated telecommunications utility (DCTU).**

(1) - (8) (No change.)

(9) Toll blocking.

(A) ~~DCTU initiated.~~ The DCTU may toll block a residential customer for the nonpayment of long distance charges.

~~(B) Long distance carrier initiated. The DCTU 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 DCTU 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.~~

~~(B)(C)~~ Access to toll-free numbers. Where technically capable, toll blocking shall allow access to toll-free numbers.

~~(C)(D)~~ Nondiscriminatory application. The DCTU shall not apply toll blocking in an unreasonably preferential, prejudicial, or discriminatory manner.

~~(D)(E)~~ Notice requirement. The DCTU shall notify the customer within 24 hours of initiating toll blocking.

(10) (No change.)

(b) Nondominant certificated telecommunications utility (NCTU).

(1) **Application.** Only paragraphs (2)-(4), (7)(A)-(D) and (10) of this subsection apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under PURA §52.154.

(2)(4) **Suspension or disconnection policy.** If an NCTU chooses to suspend or disconnect a customer's basic local telecommunications service, it must follow the procedures in this subsection or modify them in ways that are more generous to the customer in terms of the cause for suspension or disconnection, the timing of the suspension or disconnection notice, and the period between notice and suspension or disconnection. Each NCTU is encouraged to develop specific policies for suspension and disconnection that treat its customers with dignity and respect for customers' or members' circumstances and payment history, and to implement those policies in ways that are consistent and non-discriminatory. Suspension or disconnection are options allowed by the commission, not requirements placed upon the NCTU by the commission.

(3)(2) **Suspension or disconnection with notice.** After proper notice pursuant to paragraph (7)(6) of this subsection, an NCTU may suspend or disconnect basic local telecommunications service for any legal reason that is clearly disclosed in the customer's terms and conditions of service.

(4)(3) **Suspension or disconnection without notice.** Basic local telecommunications service may be suspended or disconnected without notice for any of the following reasons:

(A) where service is connected without authority;

- (B) where service was reconnected without authority; or
- (C) where there are instances of tampering with the NCTU's equipment, evidence of theft of service, or other acts to defraud the NCTU.

(5)(4) Suspension or disconnection prohibited. Basic local telecommunications service may not be suspended or disconnected for any of the following reasons:

- (A) failure to pay for any charges that are not provided for in an NCTU's tariff, schedule, list, terms and conditions of service, or customer-specific contract;
- (B) failure to pay for a different type or class of utility service unless charges were included on the bill at the time service was initiated;
- (C) failure to pay charges resulting from underbilling that is more than six months before the current billing, except for theft of service;
- (D) failure to pay disputed charges until a determination is made on the accuracy of the charges; or
- (E) failure of a residential customer to pay for any charges other than for residential local telecommunications services, except for the nonpayment of long distance charges incurred after toll blocking was imposed.

(6)(5) Suspension or disconnection on holidays or weekends. An NCTU shall not suspend or disconnect on holidays or weekends, or the day before a holiday or weekend, unless NCTU personnel are available on those days to take payments and reconnect service. An NCTU may suspend or disconnect

service on holidays or weekends, or the day before a holiday or weekend, when:

- (A) a dangerous condition exists;
- (B) notice is not required pursuant to paragraph (3) of this subsection; or
- (C) the customer requests disconnection.

~~(7)(6)~~ **Suspension and disconnection notices.** Any suspension or disconnection notice issued by an NCTU to a customer must:

- (A) not be issued to the customer before the first day after the bill is due. Payment of the delinquent bill at an NCTU's authorized payment agency is considered payment to the NCTU;
- (B) be a separate mailing or hand delivery or sent electronically if requested by the customer, 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;
- (C) have a suspension or disconnection date that is not less than ten days after the notice is issued;
- (D) be in English and Spanish; and
- (E) for residential customers, indicate the specific amount owed for local telecommunications services required to maintain basic local telecommunications service.

~~(8)(7)~~ **Residential customer payment allocations.** Payment allocations related to basic local telecommunications service suspension or disconnection are as follows:

- (A) Payments shall first be allocated to basic local telecommunications service.
- (B) If services are bundled, the rate of basic local telecommunications service shall be the NCTU's charge for stand-alone basic local telecommunications service.

~~(9)(8)~~ **Toll blocking.**

- (A) ~~NCTU initiated.~~ The NCTU may toll block a residential customer for the nonpayment of long distance charges.

~~(B) — Long distance carrier initiated. — The NCTU 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 NCTU 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. If an NCTU does not have the technical capability to initiate a toll block, then it shall refer the request to the local exchange company that can implement the toll block.~~

- ~~(B)(C)~~ Access to toll-free numbers. Where technically capable, toll blocking shall allow access to toll-free numbers.

~~(C)(D)~~ Nondiscriminatory application. The NCTU shall not apply toll blocking in an unreasonably preferential, prejudicial, or discriminatory manner.

~~(D)(E)~~ Notice requirement. The NCTU shall notify the customer within 24 hours of initiating toll blocking.

~~(10)(9)~~ **Release of telephone line.**

(A) Upon a request to switch a current customer to another local service provider, the NCTU shall release, or cause to release, the customer's telephone line and number to the preferred provider in a manner to expedite the switch without disruption in service.

(B) Upon a request to switch a suspended customer to another local service provider, the NCTU shall release, or cause to release, the customer's telephone line and number within five days after the request is received. Upon a request to switch a disconnected customer to another local service provider, the NCTU shall release, or cause to release, the customer's telephone line within five days after the request is received.

(C) An NCTU shall not refuse to release a customer's or former customer's telephone line and number due to the non-payment of a bill.

(c) (No change.)

§26.30. Complaints.

(a) (No change.)

(b) **Complaints to the commission.** Notwithstanding anything to the contrary, the commission may only hear a complaint of a retail or wholesale customer against a deregulated company that is within the scope of the commission's authority provided in Public Utility Regulatory Act (PURA) §65.102.

(1) - (2) (No change.)

§26.31. Disclosures to Applicants and Customers.

(a) **Application.** Subsection (b)(4)(C)(viii) of this section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154.

~~(b)(a)~~ **Certificated telecommunications utilities (CTU).** These disclosure requirements shall apply only to residential customers and business customers with five or fewer customer access lines.

(1) **Promotional requirements.** Promotions, including, but not limited to advertising and marketing, conducted by any CTU shall comply with the following:

(A) If any portion of a promotion is translated into another language, then all portions of the promotion shall be translated into that language. Promotions containing a single informational line or sentence in another language to advise persons how to obtain the same promotional information in a different language are exempt from this requirement.

(B) Promotions shall not be fraudulent, unfair, misleading, deceptive, or anti-competitive as prohibited by federal and state law.

(2) **Prior to acceptance of service.** Each CTU shall provide the following information to applicants before any acceptance of service:

- (A) notice that the customer will receive the information packet described in paragraphs (3) and (4) of this subsection;
- (B) an explanation of each product or service being offered;
- (C) a description of how each charge will appear on the telephone bill;
- (D) any applicable minimum contract service terms;
- (E) disclosure of any and all money that must be paid prior to installation of new service or transfer of existing service to a new location and whether or not the money is refundable;
- (F) disclosure of construction charges in accordance with §26.22 of this title (relating to Request for Service);
- (G) information about any necessary change in the applicant's telephone number;
- (H) disclosure of the company's cancellation policy; and
- (I) information on whom to call and a working toll-free number for customer inquiries.

- (3) **Terms and conditions of service.** A CTU shall provide information regarding terms and conditions of service to customers in writing and free of charge at the initiation of service. Upon request, customers are entitled to receive an additional copy of the terms and conditions of service once annually free of charge. Any contract offered by a CTU must include the terms and conditions of service statement. A CTU may not offer a customer a contract or terms and conditions of service statement which waives the customer's rights under law or commission rule.

- (A) The information shall be:
 - (i) sent to new customers before payment for a full bill is due;
 - (ii) clearly labeled to indicate it contains the terms and conditions of service;
 - (iii) provided in a readable format written in plain, non-technical language; and
 - (iv) provided in the same languages in which the CTU markets service to a customer.

- (B) The following information shall be included:
 - (i) all rates and charges as they will appear on the telephone bill;
 - (ii) an itemization of any charges which may be imposed on the customer, including but not limited to, charges for late payments and returned checks;
 - (iii) a full description of each product or service to which the customer has subscribed;
 - (iv) any applicable minimum contract service terms and any fees for early termination;
 - (v) any and all money that must be paid prior to installation of new service or transfer of existing service to a new location and whether or not the money is refundable;
 - (vi) applicable construction charges in accordance with §26.22 of this title;
 - (vii) any necessary change in the applicant's telephone number;

- (viii) the company's cancellation policy;
- (ix) a working toll-free number for customer inquiries; and
- (x) the provider's legal or "doing business as" name used for providing telecommunications services in the state.

(4) **Customer rights.** A CTU shall provide information regarding customer rights to customers in writing and free of charge at the initiation of service.

(A) The information in subparagraph (C) of this paragraph shall be:

- (i) sent to new customers before payment for a full bill is due;
- (ii) clearly labeled to indicate it contains the customer rights;
- (iii) provided in a readable format written in plain, non-technical language; and
- (iv) provided in the same languages in which the CTU markets service to a customer.

(B) The CTU shall also provide:

- (i) the information in subparagraph (C) of this paragraph to customers at least every other year at no charge; or
- (ii) a printed statement on the bill or a billing insert identifying the location of the information in subparagraph (C) of this paragraph. The statement shall be provided to customers every six months.

(C) The following information shall be included:

- (i) the CTU's credit requirements and the circumstances under which a deposit or an additional deposit may be required, how

a deposit is calculated, the interest paid on deposits, and the time frame and requirement for return of the deposit to the customer and any other terms and conditions related to deposits;

- (ii) the time allowed to pay outstanding bills and the amount and conditions under which penalties may be applied to delinquent bills;
- (iii) grounds for suspension and/or disconnection of service;
- (iv) the steps that must be taken before a CTU may suspend and/or disconnect service;
- (v) the steps for resolving billing disputes with the CTU and how disputes affect suspension and/or disconnection of service;
- (vi) information on alternative payment plans offered by the CTU, including, but not limited to, payment arrangements and deferred payment plans, as well as a statement that a customer has the right to request these alternative payment plans;
- (vii) the steps necessary to have service restored and/or reconnected after involuntary suspension or disconnection;
- (viii) a customer's right to continue local service as long as full payment for local service is timely made;
- (ix) information regarding protections against unauthorized billing charges ("cramming") and selection of telecommunications utilities ("slamming") as required by §26.32 of this title

(relating to Protection Against Unauthorized Billing Charges (“Cramming”)) and §26.130 of this title (relating to Selection of Telecommunications Utilities), respectively;

- (x) information regarding telephone solicitation as required by §26.126 of this title (relating to Telephone Solicitation);
- (xi) information about customer proprietary network information as required by §26.122(f) of this title (relating to Customer Proprietary Network Information);
- (xii) the customer’s right to file a complaint with the CTU, the procedures for a supervisory review, and right to file a complaint with the commission regarding any matter concerning the CTU’s service. The commission’s contact information: Public Utility Commission of Texas, Customer Protection Division, P.O. Box 13326, Austin, Texas 78711-3326, (512) 936-7120 or in Texas (toll-free) 1-888-782-8477, fax (512) 936-7003, e-mail address: customer@puc.state.tx.us, Internet address: www.puc.state.tx.us, TTY (512) 936-7136, and Relay Texas (toll-free) 1-800-735-2989, shall accompany this information;
- (xiii) the hours, addresses, and telephone numbers of CTU offices where bills may be paid and information may be obtained, or a toll-free number at which the customer may obtain this information;

- (xiv) a toll-free telephone number or the equivalent (such as use of WATS or acceptance of collect calls) that customers may call to report service problems or make billing inquiries;
 - (xv) a statement that CTU services are provided without discrimination as to a customer's race, color, sex, nationality, religion, marital status, income level, source of income, or from unreasonable discrimination on the basis of geographic location;
 - (xvi) a summary of the company's policy regarding the provision of credit history based upon the credit history of a customer's former spouse;
 - (xvii) notice of any special services such as readers or notices in Braille, if available, and the telephone number of the text telephone for the deaf or hard of hearing at the commission;
 - (xviii) how customers with physical disabilities, and those who care for them, can identify themselves to the CTU so that special action can be taken to appropriately inform these persons of their rights; and
 - (xix) if a CTU is offering Lifeline, how information about customers who qualify for Lifeline may be shared between state agencies and their local phone service provider.
- (5) **Notice of changes.** A CTU shall provide customers written notice between 30 and 60 calendar days in advance of a material change in the terms and

conditions of service or customer rights and shall give the customer the option to decline any material change in the terms and conditions of service and cancel service without penalty due to the material change in the terms and conditions of service. This paragraph does not apply to changes that are beneficial to the customer such as a price decrease or mandated regulatory changes.

(6) **Right of cancellation.**

(A) A CTU shall provide all of its residential applicants and customers the right of rescission in accordance with applicable law.

(B) If a residential applicant or customer will incur an obligation exceeding 31 days, a CTU shall promptly provide the applicant or customer with the terms and conditions of service after the applicant or customer has provided authorization to CTU. The CTU shall offer the applicant or customer a right to cancel the contract without penalty or fee of any kind for a period of six business days after the terms and conditions of service are mailed or sent electronically to the applicant or customer.

~~(c)(b)~~ **Dominant certificated telecommunications utility (DCTU).** In addition to the requirements of subsection ~~(b)(a)~~ of this section, the following requirements shall apply to residential customers and business customers with five or fewer customer access lines.

- (1) **Prior to acceptance of service.** Before signing applicants or accepting any money for new residential service or transferring existing residential service to a new location, each DCTU shall provide to applicants information:
 - (A) about the DCTU's lowest-priced alternatives, beginning with the least cost option, and the range of service offerings available at the applicant's location with full consideration to applicable equipment options and installation charges; and
 - (B) that clearly informs applicants about the availability of Lifeline service.
- (2) **Customer rights.**
 - (A) If a DCTU provides its customers with the same information as required by subsection ~~(b)(a)~~(4)(C) of this section in the telephone directories provided to each customer pursuant to §26.128 of this title (relating to Telephone Directories), the DCTU shall provide a printed statement on the bill or a billing insert identifying the location of the information. The statement or billing insert shall be provided to customers every six months.
 - (B) The information required by subsection ~~(b)(a)~~(4)(C) of this section and this subsection shall be provided in English and Spanish; however, a DCTU is exempt from the Spanish language requirement if 10% or fewer of its customers are exclusively Spanish-speaking. If the DCTU is exempt from the Spanish language requirement, it shall notify all customers through a statement in both English and Spanish,

in the customer rights, that the information is available in Spanish from the DCTU, both by mail and at the DCTU's offices.

- (C) The information required in subsection ~~(b)(a)~~(4)(C) of this section shall also include:
- (i) the customer's right to information about rates and services;
 - (ii) the customer's right to inspect or obtain at reproduction cost a copy of the applicable tariffs and service rules;
 - (iii) information on prohibitions for disconnection of local service for the ill and disabled;
 - (iv) information on the availability of prepaid local telephone service as required by §26.29 of this title (relating to Prepaid Local Telephone Service (PLTS)); and
 - (v) information regarding privacy issues as required by §26.121 of this title (relating to Privacy Issues).

~~(d)(e)~~ **Nondominant certificated telecommunications utility (NCTU) implementation.**

NCTUs shall implement this section no later than March 1, 2001.

§26.34. Telephone Prepaid Calling Services.

(a) (No change.)

(b) **Application.** This section applies to any “telecommunications utility” as that term is defined in §26.5 of this title (relating to Definitions). This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154. This section also does not apply to a credit calling card in which a customer pays for a service after use and receives a monthly bill for such use.

(c) - (m) (No change.)

§26.51. Reliability of Operations of Telecommunications Providers.

(a) **Application.** Unless the context clearly indicates otherwise, in this section the term “utility,” insofar as it relates to telecommunications utilities, shall refer to local exchange companies that are facilities-based providers, as defined in §26.5~~(132)(85)~~ and ~~(95)(119)~~ of this title (relating to Definitions). This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154. This section also does not apply to the retail services of an electing company, as defined by PURA §58.002, or to the retail nonbasic services offered by a transitioning company, as defined by PURA §65.002.

(b) - (e) (No change.)

(f) **Change in character of service.**

(1) (No change.)

(2) This paragraph applies only to local exchange companies that are dominant carriers, as defined in §26.5~~(73)(66)~~ of this title. Where change in service requires dominant carriers to adjust or replace standard equipment, these changes shall be made to permit use under such changed conditions, adjustment shall be made by the dominant carrier without charge to the customers, or in lieu of such adjustments or replacements, the dominant

carrier may make cash or credit allowances based on the duration of the change and the degree of efficiency loss.

§26.52. Emergency Operations.

(a) This section does not apply to the retail services of an electing company, as defined by the Public Utility Regulatory Act (PURA) §58.002, or to the retail nonbasic services offered by a transitioning company, as defined by PURA §65.002.

~~(b)(a)~~ Each dominant certificated telecommunications utility's (DCTU) central office not equipped with permanently installed standby generators shall contain as a minimum four hours of battery reserve without voltage falling below the level required for proper operation of all equipment. It is also essential that all central offices have adequate provisions for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on short notice.

~~(c)(b)~~ In exchanges exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.

§26.53. Inspections and Tests.

(a) This section does not apply to the retail services of an electing company, as defined by Public Utility Regulatory Act (PURA) §58.002, or to the retail nonbasic services offered by a transitioning company, as defined by PURA §65.002.

~~(b)(a)~~ Each dominant certificated telecommunications utility (DCTU) shall adopt a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and rendition of safe, adequate, and continuous service.

~~(c)(b)~~ Each DCTU shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities. The actual transmission performance of the network shall be monitored to determine if the service objectives in this chapter are met. This monitoring function shall include, but not be limited to, circuit order tests prior to placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic noise tests of a sample of customer loops in each exchange, and special transmission surveys of the network.

~~(d)(e)~~ Each central office serving more than 300 customer access lines shall be equipped with a 1,000 +/- 20 hertz, one milliwatt test signal generator and a 900 Ohm balanced termination device wired to telephone numbers so that they may be accessed for dial

test purposes. Each DCTU shall advise the commission of the numbers assigned for these test terminations.

§26.73. Annual Earnings Report.

(a) Each utility shall file with the commission, on commission-prescribed forms available on the commission's website, an earnings report providing the information required to enable the commission to properly monitor public utilities within the state. A deregulated or transitioning company is not required to file an earnings report with the commission unless the company is receiving support from the Texas High Cost Universal Service Plan.

- (1) Each utility shall report information related to the most recent calendar year as specified in the instructions to the report.
- (2) Each utility shall file three copies of the commission-prescribed earnings report and shall electronically transmit one copy of the report no later than May 15th of each year.
- (3) A utility with a rate proceeding pending before the commission on the due date of the annual earnings report, pursuant to the Public Utility Regulatory Act (PURA), Chapter 53, in which a rate filing package is required, or who had a final order issued in such a proceeding within the previous 12 months, is exempt from filing the report.

(b) In addition to the utilities required to file under subsection (a) of this section, a telecommunications provider shall file with the commission the provider's annual earnings report if the provider:

- (1) Is not a local exchange company subject to a total support reduction plan under §26.403 of this title (relating to the Texas High Cost Universal Service Plan) or that has made an election under PURA §56.023(1);
 - (2) Serves greater than 31,000 access lines; and
 - (3) Receives support under a plan established under PURA §56.021(1).
- (c) A report filed under this section is confidential and not subject to disclosure under the Texas Government Code, Public Information Act, Chapter 552.

§26.79. Equal Opportunity Reports.

(a) This section does not apply to a deregulated company that holds a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154.

(b)(a) The term “minority group members,” when used within this section, shall include only members of the following groups:

- (1) African-Americans;
- (2) American Indians;
- (3) Asian-Americans;
- (4) Hispanic-Americans and other Americans of Hispanic origin; and
- (5) women.

(c)(b) Each utility that files any form with local, state or federal governmental agencies relating to equal employment opportunities for minority group members, (e.g., EEOC Form EEO-1, FCC Form 395, RUS Form 268, etc.) shall file copies of such completed form with the commission. If such form submitted by a multi-jurisdictional utility does not indicate Texas-specific numbers, the utility shall also prepare, and file with the commission, a form indicating Texas-specific numbers, in the same format and based on the numbers contained in the form previously filed with local, state or federal governmental agencies. Each utility shall also file copies of any other forms required to be filed with local, state or federal governmental

agencies which contain the same or similar information, such as personnel data identifying numbers and occupations of minority group members employed by the utility, and employment goals relating to them, if any.

~~(d)(e)~~ Any additional information relating to the matters described in this section may be submitted at the utility's option.

~~(e)(4)~~ Any utility filing with the commission any documents described in subsections ~~(c)(4)~~ and ~~(d)(e)~~ of this section shall file four copies of such documents with the commission's filing clerk under the project number assigned by the Public Utility Commission's Central Records Office for that year's filings. Utilities shall obtain the project number by contacting Central Records.

~~(f)(e)~~ A utility that files a report with local, state or federal governmental agencies and that is required by this section to file such report with the commission must file the report by December 30 of the year it is filed with the local, state or federal agencies.

~~(g)(f)~~ A utility that files a report pursuant to §26.85(f)(1) of this title (relating to Report of Workforce Diversity and Other Business Practices) satisfies the requirements of subsection ~~(c)(4)~~ of this section.

§26.80. Annual Report on Historically Underutilized Businesses.

(a) This section does not apply to a deregulated company that holds a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154.

~~(b)(a)~~ In this section, “historically underutilized business” has the same meaning as in Texas Government Code, §481.191, as it may be amended.

~~(c)(b)~~ Every utility shall report its use of historically underutilized businesses (HUBs) to the commission on a form approved by the commission. A utility may submit the report on paper, or on paper and on a diskette (in Lotus 1-2-3 (*utility name.wk*) or Microsoft Excel (*utility name.xl*) format).

(1) Each small local exchange company and telephone cooperative utility shall on or before December 30 of each year submit to the commission a comprehensive annual report detailing its use of HUBs for the four quarters ending on September 30 of the year the report is filed, using the Small Utilities HUB Report form.

(2) Every utility other than those specified in paragraph (1) of this subsection, shall on or before December 30 of each year submit to the commission a comprehensive annual report detailing its use of HUBs for the four prior quarters ending on September 30 of the year the report is filed, using the Large Utilities HUB Report form.

- (3) Each utility wishing to report indirect HUB procurements or HUB procurements made by a contractor of the utility may use the Supplemental HUB report form.
- (4) Each utility shall submit a text description of how it determined which of its vendors is a HUB.
- (5) Each utility that has more than 1,000 customers in a state other than Texas, or that purchases more than 10% of its goods and services from vendors not located in Texas, shall separately report by total and category all utility purchases, all utility purchases from Texas vendors, and all utility purchases from Texas HUB vendors. A vendor is considered a Texas vendor if its physical location is situated within the boundaries of Texas.
- (6) Each utility shall also file any other documents it believes appropriate to convey an accurate impression of its use of HUBs.

~~(d)~~(e) This section may not be used to discriminate against any citizen on the basis of race, nationality, color, religion, sex, or ~~marital~~ ~~marital~~ status.

~~(e)~~(d) This section does not create a new cause of action, either public or private.

§26.85. Report of Workforce Diversity and Other Business Practices.

(a) (No change.)

(b) **Application.** This section applies to all telecommunications utilities, as defined in PURA §51.002(11), doing business in the State of Texas. This section does not apply to a deregulated company that holds a certificate of operating authority or to a qualified nondominant telecommunications utility under PURA §52.154.

(c) - (i) (No change.)

§26.89. Information Regarding Rates and Services of Nondominant Carriers.

(a) - (c) (No change.)

(d) A nondominant carrier:

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

(4) is not required to obtain advance approval for a filing with the commission or a posting on the nondominant carrier's Internet website that adds, modifies, withdraws, or grandfathers a retail service or the service's rates, terms, or conditions;

(5) is not subject to any rule or regulatory practice that is not imposed on:

(A) a holder of a certificate of convenience and necessity serving the same area; or

(B) a deregulated company that:

(i) has 500,000 or more access lines in service at the time it becomes a deregulated company; or

(ii) serves an area also served by the nondominant telecommunications utility.

§26.123. Caller Identification Services.

- (a) **Application.** Unless the context clearly indicates otherwise, this section applies to all telecommunications utilities and providers of commercial mobile radio services otherwise herein referred to as “Providers of Caller ID.” This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154.

- (b) - (c) (No change.)

§26.128. Telephone Directories.

- (a) **ApplicationApplicability**. The provisions of this section shall apply to all telephone directory providers to the extent outlined in this section. This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154. For purposes of this section, the term “a private for-profit publisher” shall mean a publisher, other than a telecommunications utility or its affiliate, of a telephone directory that contains residential listings and that is distributed to the public at minimal or no cost.

(b) - (g) (No change.)

§26.133. Business and Marketing Code of Conduct for Certificated Telecommunications Utilities (CTUs).

(a) (No change.)

(b) **Application.** This section applies to all certificated telecommunications utilities (CTUs), as defined in §26.5 of this title (relating to Definitions), and CTU employees. This section also applies to all authorized agents of the CTU. This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Regulatory Act (PURA) §52.154.

(c) - (h) (No change.)

§26.142. Integrated Services Digital Network (ISDN).

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

(j) Limitation on filings and postings. Notwithstanding any provision in this section to the contrary, the commission may not require a transitioning company to obtain advance approval for a filing with the commission or a posting on the company's Internet website that adds, modifies, withdraws, or grandfathers services under this section.

§26.143. Provision of Advanced Services in Rural Areas.

(a) (No change.)

(b) **Application.** This section applies to a company electing under PURA Chapter 58 or a company that holds a certificate of operating authority (COA) or service provider certificate of operating authority (SPCOA). This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under PURA §52.154.

(c) - (f) (No change.)

§26.211. Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges.

- (a) **Application.** The provisions of this section apply to incumbent local exchange companies (ILECs), as defined by §26.5 of this title (relating to Definitions). This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under PURA §52.154.

- (b) - (f) (No change.)

§26.225. Requirements Applicable to Nonbasic Services For Chapter 58 Electing Companies.

- (a) **Application.** This section applies to any electing company as the term is defined in the Public Utility Regulatory Act (PURA) §58.002. Other sections applicable to an electing company include, but are not limited to, §26.224 of this title (relating to Requirements Applicable to Basic Network Services for Chapter 58 Electing Companies), §26.226 of this title (relating to Requirements Applicable to Pricing Flexibility for Chapter 58 Electing Companies), and §26.227 of this title (relating to Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies.). PURA §55.003 and §55.004 do not apply to the retail services offered by an electing company, or to the retail nonbasic services offered by a transitioning company, as defined by PURA §65.002.

- (b) - (e) (No change.)

§26.226. Requirements Applicable to Pricing Flexibility for Chapter 58 Electing Companies.

- (a) **Application.** This section applies to any electing company as the term is defined in the Public Utility Regulatory Act (PURA) §58.002. Other sections applicable to an electing company, include, but are not limited to §26.211 of this title (relating to Rate-Setting for Services Subject to Significant Competitive Challenges), §26.224 of this title (relating to Requirements Applicable to Basic Network Services for Chapter 58 Electing Companies), §26.225 of this title (relating to Requirements Applicable to Nonbasic Services for Chapter 58 Electing Companies) and §26.227 of this title (relating to Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies). PURA §55.003 and §55.004 do not apply to the retail services offered by an electing company, or to the retail nonbasic services offered by a transitioning company, as defined by PURA §65.002.

- (b) - (e) (No change.)

§26.227. Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies.

(a) **Application.** This section applies to any electing company as the term is defined in the Public Utility Regulatory Act (PURA) §58.002 who chooses to offer nonbasic services and/or exercise pricing flexibility for basic and nonbasic services through informational notice filings. Other sections applicable to an electing company include, but are not limited to, §26.224 of this title (relating to Requirements Applicable to Basic Network Services for Chapter 58 Electing Companies), §26.225 of this title (relating to Requirements Applicable to Nonbasic Services for Chapter 58-Electing Companies) and §26.226 of this title (relating to Requirements Applicable to Pricing Flexibility for Chapter 58 Electing Companies). Notwithstanding other provisions of this section, PURA §55.003 and §55.004 do not apply to the retail services offered by an electing company, or to the retail nonbasic services offered by a transitioning company, as defined by PURA §65.002.

(b) (No change.)

(c) **Informational notice filing and notice requirements related to pricing flexibility and nonbasic services, including new services.**

(1) **Notice requirements.**

(A) General notice requirements. An electing company shall provide the informational notice in compliance with this section to the commission, to the Office of Public Utility Counsel (OPC), and to any

person who holds a certificate of operating authority in the electing company's certificated area or areas, or who has an effective interconnection agreement with the electing company.

(B) Unless an interconnection agreement contract specifies otherwise, an incumbent local exchange carrier shall continue to provide to affected resellers of retail services the same notice of rate changes or withdrawal of detariffed services that it was required to provide prior to detariffing.

(2) (No change.)

(d) - (h) (No change.)

§26.228. Requirements Applicable to Chapter 52 Companies.

(a) - (f) (No change.)

(g) **Procedures related to the filing of informational notices and associated tariffs.**

The provisions of this subsection apply to ILECs choosing to introduce new services and exercise pricing and packaging flexibility including customer promotional offerings through informational notice filings.

(1) **Notice requirements.**

(A) An ILEC shall provide the informational notice in compliance with this section to the commission, to the Office of Public Utility Counsel (OPC), and to any person who holds a certificate of operating authority in the ILEC's certificated area or areas, or who has an effective interconnection agreement with the ILEC.

(B) Unless an interconnection agreement contract specifies otherwise, an incumbent local exchange carrier shall continue to provide to affected resellers of retail services the same notice of rate changes or withdrawal of detariffed services that it was required to provide prior to detariffing.

(2) - (5) (No change.)

§26.229. Requirements Applicable to Chapter 59 Electing Companies.

(a) - (f) (No change.)

(g) **Procedures related to the filing of informational notices and associated tariffs.**

The provisions of this subsection apply to electing companies choosing to introduce new services and exercise pricing and packaging flexibility including customer promotional offerings through informational notice filings.

(1) **Notice requirements.**

(A) An electing company shall provide the informational notice in compliance with this section to the commission, to the Office of Public Utility Counsel (OPC), and to any person who holds a certificate of operating authority in the electing company's certificated area or areas, or who has an effective interconnection agreement with the electing company.

(B) Unless an interconnection agreement contract specifies otherwise, an incumbent local exchange carrier shall continue to provide to affected resellers of retail services the same notice of rate changes or withdrawal of detariffed services that it was required to provide prior to detariffing.

(2) - (5) (No change.)

(h) - (i) (No change.)

§26.230. Requirements Applicable to Chapter 65 One-day Informational Notice Filings.

- (a) **Application.** This section applies to incumbent local exchange companies (ILECs), as defined in the Public Utility Regulatory Act (PURA) §51.002(3), with markets deregulated pursuant to PURA Chapter 65 who choose to offer services through one-day informational notice filings pursuant to PURA §§65.151-65.153. Except as provided in subsection (i) of this section, aA transitioning company, as defined in PURA §65.002(5), which does not choose to offer services through a one-day informational notice filing must either offer services through ten-day informational notice filings pursuant to §§26.227-26.229 of this title (relating to Costs, Rates and Tariffs) or through filings pursuant to §§26.207-26.211 of this title (relating to Costs, Rates and Tariffs).
- (b) (No change.)
- (c) **Pricing standards.**
- (1) - (6) (No change.)
- (7) A ~~deregulated or~~ transitioning company may offer to an individual residential customer a promotional offer that is not available uniformly throughout the market if the company makes the offer through a medium other than direct mail or mass electronic media and the offer is intended to retain or obtain a customer.

(d) **Procedures related to the filing of one-day informational notices and associated tariffs.** The provisions of this subsection apply to ILECs choosing to introduce new services and/or exercise pricing and packaging flexibility through one-day informational notice filings.

(1) **Notice requirements.**

(A) A transitioning ILEC shall provide notice of an impending informational notice filing to the commission, the Office of Public Utility Counsel (OPC), and to any person who holds a certificate of operating authority in the transitioning ILEC's certificated area or areas, or who has an effective interconnection agreement with the transitioning ILEC. Such notice shall inform the recipient of the nature and material terms of the impending filing.

(B) Unless an interconnection agreement contract specifies otherwise, an incumbent local exchange carrier shall continue to provide to affected resellers of retail services the same notice of rate changes or withdrawal of detariffed services that it was required to provide prior to detariffing.

(2) (No change.)

(e) - (h) (No change.)

(i) A deregulated company or a transitioning company is not required to obtain advance approval for a filing with the commission or a posting on the company's Internet website that adds, modifies, withdraws, or grandfathers:

(1) a nonbasic retail service or the service's rates, terms or conditions; or

(2) for a market that has been deregulated, a basic network service or the service's rates, terms or conditions.

§26.272. Interconnection.

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

(c) **Application and Exceptions.**

(1) (No change.)

(2) **Exceptions.** Except as herein provided, all CTUs providing local exchange service must comply with the requirements of this section.

(A) - (D) (No change.)

(E) Deregulated companies and nondominant telecommunications utilities.

Subsections (i)(2) and (3) of this section do not apply to deregulated companies holding a certificate of operating authority or to qualified nondominant telecommunications utilities under PURA §52.154.

(d) - (i) (No change.)

§26.311. Information Relating to Operator Services.

(a) (No change.)

~~(b)~~ **Application.** This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

~~(c)(b)~~ **Definition.** The term “rate information,” when used in this subchapter, shall mean all charges ultimately charged to the end user by the operator service provider (OSP), including any surcharges, fees, and any other form of compensation charged by the OSP on behalf of the call aggregator.

~~(d)(e)~~ **Complaints relating to operator services.**

- (1) The OSP shall have a toll-free telephone number that callers may use, during normal business hours, to voice complaints and make inquiries. After normal business hours, the OSP shall have an answering machine/mechanism to receive complaints.
- (2) Section 26.30 of this title (relating to Complaints) shall apply to all complaints under this subchapter.
- (3) The commission may formally investigate any complaint against any OSP, interexchange carrier or dominant certificated telecommunications utility alleged to have violated the provisions of this subchapter. The company shall be

given an opportunity to informally resolve any complaint involving violation of these rules. If no resolution is achieved informally, the commission may formally investigate the complaint upon its own motion or upon request of the original complainant.

~~(e)(4)~~ **Enforcement.** Upon proper notice, evidentiary hearing, and determination that a violation has occurred or is about to occur, the commission may take action to stop, correct or prevent the violation. Any OSP found to be in violation of provisions of this subchapter is subject to administrative penalties, civil penalties, and injunctive relief pursuant to the ~~PURA~~Public Utility Regulatory Act §§15.023, 15.028, and 15.021.

§26.313. General Requirements Relating to Operator Services.

(a) Application - This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

(b)(a) **Requirements to provide operator service.**

- (1) An operator service provider (OSP) that provides end user operator services for a call aggregator through a telephone that is intended for public use must do so pursuant to a contract with the call aggregator, as a presubscribed interexchange carrier, or, in the case of a dominant certificated telecommunications utility (DCTU), pursuant to a tariff approved by the commission.
- (2) Notwithstanding the provisions of paragraph (1) of this subsection, an OSP that owns or otherwise controls telephones that are intended for public use shall for those telephones comply with all provisions of this subchapter otherwise required to be included in contracts between OSPs and call aggregators, without the necessity of a contract.
- (3) Where a different OSP is presubscribed for operator services at pay telephones owned by a DCTU, the DCTU shall for those telephones comply with all provisions of this subchapter otherwise required to be included in contracts between OSPs and call aggregators.

- (4) If a DCTU or presubscribed interexchange carrier provides operator services through telephones that are intended for public use, other than those telephones subject to paragraphs (2) and (3) of this subsection, and pays fees or other forms of compensation to a call aggregator, the DCTU or presubscribed interexchange carrier shall do so pursuant to a contract with the call aggregator.

~~(c)(b)~~ **Requirements before call is completed.** The provider of operator services shall:

- (1) audibly and distinctly identify itself to the customer upon answering calls;
- (2) audibly and distinctly identify itself to the billed party if the billed party is different from the caller;
- (3) quote rate information at the caller's request, without charge, 24 hours a day, seven days a week; and
- (4) permit the caller to terminate the call at no charge prior to completion of the call by the OSP.

~~(d)(e)~~ **Requirements for uncompleted call.** There shall be no charge to the caller for any uncompleted call.

- (1) No OSP shall knowingly bill for uncompleted calls.
- (2) If the OSP cannot determine with certainty that a call was completed, it shall provide a full credit for any call of one minute or less upon being informed by a customer that the call was not completed.
- (3) An uncompleted call includes, but shall not be limited to:

- (A) calls terminating to an intercept recording, line intercept operator, or a busy tone; or
 - (B) calls that are not answered.
- (4) An uncompleted call does not include calls using busy line interrupt, line status verification, or directory assistance services.

~~(e)~~(4) Requirement to provide access to a live operator.

- (1) Each telecommunications utility that provides operator services shall ensure that a caller may access a live operator at the beginning of all automated operator-assisted calls through a method designed to be easily and clearly understandable and accessible to the caller. This requirement applies only to “0-” calls where the caller reaches an automated operator. Within 30 days of initially providing operator services each such telecommunications utility shall file in the Central Records Office of the commission, for review, a document describing the method by which the utility is providing access to a live operator, as provided by the Public Utility Regulatory Act §55.088.
- (2) This subsection applies regardless of the method by which the telecommunications utility provides the operator service.
- (3) The requirements of this subsection shall not apply to telephones located in confinement facilities.

~~(f)~~(e) Call splashing. Call splashing is call transferring (whether caller requested or OSP initiated) that results in a call being rated and/or billed from a point different from

that where the call originated. Call splashing shall not be allowed unless a waiver of the access requirements in §26.319(1)(A) of this title (relating to Access to the Operator of a Local Exchange Company (LEC)) has been granted pursuant to §26.319(3) of this title and unless:

- (1) the originating OSP first clearly and explicitly notifies the caller that the call will be splashed and may result in rating and/or billing of the call from a point different from that where the call originated; and
- (2) the originating OSP allows the caller to abort the call without charge after notification that the call will be splashed.

~~(g)~~ **Other requirements.**

- (1) OSPs that are not DCTUs are subject to the requirements contained in the Public Utility Regulatory Act and the commission's substantive rules for nondominant telecommunications utilities.
- (2) If an OSP provides a local exchange company with information regarding end-user access to the OCP, the OSP must provide a single access code; must detail, by NPA-NXX, where the access code can be used to access the OSP; and must provide the local exchange company with appropriate instructions for use of the access code. The OSP is responsible for ensuring that the access code specified is available for each NPA-NXX listed and for updating the information.

§26.317. Information to be Provided at the Telephone Set.

(a) This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

(b)(a) A contract between an operator service provider (OSP) and a call aggregator for the provision of operator services through telephones that are intended for public use shall require the call aggregator to attach to each telephone set that has access to the operator service and that is intended for public use, a card furnished by the OSP that provides:

- (1) the name of the OSP;
- (2) instructions for accessing the OSP, with a statement that the OSP will quote rate information upon request at no charge to the caller, 24 hours a day, seven days a week, or a statement that instructions for obtaining rate information are available at a designated toll-free telephone number, 24 hours a day, seven days a week;
- (3) instructions for accessing the operator of a local exchange company that meets the requirements of §26.315(d)(e) of this title (relating to Requirements for Dominant Certificated Telecommunications Utilities (DCTUs)), or a statement that instructions for accessing such local exchange company operator are available at a designated toll-free telephone number, 24 hours a day, seven days a week, except local exchange companies meeting the

requirements of §26.315~~(d)(e)~~ of this title are exempt from this paragraph if the local exchange company is the OSP for which instructions are posted pursuant to paragraph (2) of this subsection;

- (4) instructions for registering a complaint about the service at a designated toll-free telephone number;
- (5) instructions in English and Spanish for accessing emergency service; and
- (6) a notice that states, “You may use another long distance carrier. Follow your carrier’s instructions, or contact the local exchange company operator for assistance.” or, in the case of telephones that directly route “0-” calls to the local exchange company operator, a notice that states, “You may use another long distance carrier. Follow your carrier’s instructions, or dial “0” for assistance.” (The local exchange company referred to in this paragraph must serve the area and meet the requirements of §26.315~~(d)(e)~~ of this title.) The notice required by this paragraph may use the term “local exchange carrier operator” in place of the term “local exchange company operator.”

~~(c)(b)~~ Notwithstanding subsection ~~(b)(a)~~ of this section, in the case of pay telephones owned by the DCTU, where the DCTU is the OSP for intraLATA operator service and another carrier is the OSP for interLATA operator service, the interLATA OSP shall inform the DCTU of the appropriate information to be posted, and the DCTU shall post the information required by subsection ~~(b)(a)~~(1), (2) and (4) of this section for the interLATA OSP. In addition, the DCTU shall post the information required by subsection ~~(b)(a)~~(5) and (6) of this section. After initial information cards are

posted, DCTUs may file tariffs to recover from the OSPs presubscribed to pay telephones owned by the DCTUs the incremental cost for maintaining updated information cards plus a reasonable contribution.

~~(d)~~(e) The commission may approve applications for modification of the requirements contained in this section upon showing of good cause. Applications for modification may be filed by the call aggregator or by the OSP. The commission shall process applications for modification using the following criteria and procedures:

- (1) Each application for modification shall contain a certificate of service attesting that a copy of the request has been served upon the Office of Public Utility Counsel.
- (2) Each application for modification shall clearly set forth the good cause for approval of the modification.
- (3) Each application for modification shall initially be assigned a project control number, assigned to a presiding officer, and reviewed administratively.
 - (A) No later than 30 days after the filing date of the application, interested persons other than the commission staff and the Office of Public Utility Counsel may file written comments or recommendations concerning the application. No later than 60 days after the filing of the application, the commission staff shall, and the Office of Public Utility Counsel may, file written comments or recommendations concerning the application.

- (B) Within 90 days of filing, after administrative review, the presiding officer shall approve, deny, or docket the application. The presiding officer may postpone a decision on the application beyond the 90th day after filing if he or she finds that additional information is needed.
- (4) Any participating party may request, within ten days of the presiding officer's order approving or denying the application, that the application be docketed, and upon such request, the application shall be docketed.
- (5) If the presiding officer either approves or denies the application for modification and no participating party has requested that the application be docketed, a copy of the presiding officer's ruling shall be provided to the commission. The commission may, within 40 days of the presiding officer's ruling, overrule the approval or denial and order that the application for modification be docketed.

(e)(4) The requirements of this section shall not apply to telephones located in confinement facilities.

§26.319. Access to the Operator of a Local Exchange Company (LEC).

(a) This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

(b) A contract between an operator service provider (OSP) and a call aggregator for the provision of operator services through telephones that are intended for public use shall require that the call aggregator allow access to the operator of a local exchange company that meets the requirements enumerated in §26.315~~(d)~~~~(e)~~ of this title (relating to Requirements for Dominant Certificated Telecommunications Utilities (DCTUs)) and serves the area from which the call is made, and to other telecommunications utilities unless otherwise provided in paragraph (3) of this ~~subsection~~section.

(1) The access required by this subsection shall be provided subject to the conditions contained in subparagraphs (A) - (C) of this paragraph.

(A) Access to such local exchange company operator shall be accomplished either:

(i) by directly routing all “0-” calls to the local exchange company operator, without charge to the caller; or

(ii) by transfer or redirection of the call by the OSP, without charge to the caller, in accordance with the requirements of subclauses (I)-(III) of this clause:

- (I) the OSP shall transfer or redirect the call to such local exchange company operator serving the originating area;
 - (II) the OSP shall transfer or redirect the call to such local exchange company operator in such a way that the local exchange company operator receives all signaling information (e.g., ANI and OLS) that would have been received by the local exchange operator if the call had been directly routed to the local exchange company; and
 - (III) the OSP shall be in compliance with the requirements of §26.321 of this title (relating to 9-1-1 Calls, “0-” Calls, and End User Choice).
- (B) Access to interexchange carriers by “950-XXXX” and “1-800” numbers shall not be blocked.
- (C) Access to interexchange carriers by “1010XXX+0” (whether “1010XXX+0+” or “1010XXX+0-”) dialing shall not be blocked if the end office serving the originating line has originating line screening capability. A nonpresubscribed interexchange carrier shall not bill the call aggregator or the presubscribed interexchange carrier for local or toll messages originated at the call aggregator’s facility by use of “1010XXX+0” (whether “1010XXX+0+” or “1010XXX+0-”) dialing, or where the calls originated at the call aggregator’s facility

and otherwise reached an operator, if the call aggregator has subscribed to the necessary local exchange company-provided outgoing call screening or has otherwise provided the necessary call screening to ensure that appropriate originating line screening is transmitted with each call.

- (2) The local exchange company that provides local service to the call aggregator shall provide to the call aggregator, upon request, the names, with addresses or telephone numbers, of interexchange carriers that can be accessed by use of “1010XXX” dialing from the call aggregator’s facilities.
- (3) Waivers to the access requirement may be granted by the commission to prevent fraudulent use of telephone services or for other good cause. An application under subparagraph (B) of this paragraph is not required for any generic waiver granted by subparagraph (A) of this paragraph.
 - (A) The commission finds that the following generic waivers of the access requirement are required to prevent fraudulent use.
 - (i) Access to interexchange carriers by “1010XXX+0” (whether “1010XXX+0+” or “1010XXX+0-”) dialing may be blocked if the end office serving the originating line does not have originating line screening capability.
 - (ii) Access to interexchange carriers by “1010XXX+1” dialing may be blocked.

- (iii) Access to the local exchange carrier operator and to other telecommunications utilities from telephones located in confinement facilities may be blocked.
- (B) Applications for waiver of the requirement for access to the local exchange carrier operator or to other telecommunications utilities to prevent fraudulent use of telephone service or for other good cause may be filed by the call aggregator or the OSP. The commission shall process such applications for waiver using the following criteria and procedures:
 - (i) Each application for waiver shall contain a certificate of service attesting that a copy of the application has been served upon the Office of Public Utility Counsel and affected telecommunications utilities, including those identified in paragraph (2) of this section and the local exchange companies serving the affected exchange. If the application for waiver pertains to technical limitations of certain equipment, the application for waiver shall contain a certificate of service attesting that a copy of the application has been served upon the Office of Public Utility Counsel and all telecommunications utilities registered with or certificated by the commission. The certificate shall list the telecommunications utilities on which copies of the application were served.

- (ii) If the application for waiver pertains to technical limitations of certain equipment, the equipment shall be clearly identified in the application, including the manufacturer and the model. The application shall indicate the date of purchase of the equipment by the call aggregator, the extent to which equipment is available to allow the access requirements to be met, the associated costs, and the time requirements associated with equipment modifications.
- (iii) The access requirement shall be enforced while the application for waiver is pending.
- (iv) Each application for waiver shall initially be assigned a project control number, assigned to a presiding officer, and reviewed administratively.
 - (I) No later than 30 days after the filing date of the application, interested persons other than the commission staff and the Office of Public Utility Counsel may file written comments or recommendations concerning the application. No later than 60 days after the filing of the application, the commission staff shall, and the Office of Public Utility Counsel may, file written comments or recommendations concerning the application.

- (II) Within 90 days of the filing, after administrative review, the presiding officer shall approve, deny, or docket the application. The presiding officer may postpone a decision on the application beyond the 90th day after filing if he or she finds that additional information is needed to determine whether good cause exists.
- (v) A participating party may request, within ten days of the presiding officer's ruling approving or denying the application, that the application be docketed, and upon such request, the application shall be docketed.
- (vi) If the presiding officer either approves or denies the application for waiver and no participating party has requested that the application be docketed, a copy of the presiding officer's ruling shall be provided to the commission. The commission may, within 40 days of the presiding officer's ruling, overrule the approval or denial and order that the request for waiver be docketed.

§26.321. 9-1-1 Calls, “0-” Calls, and End User Choice.

(a) This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

~~(b)(a)~~ A contract between an operator service provider (OSP) and a call aggregator for the provision of operator services through telephones that are intended for public use shall require the call aggregator to allow 9-1-1 calls to be outpulsed directly to the public service answering point without requiring a coin or credit card.

~~(c)(b)~~ Where end user choice, as defined in §26.5 of this title (relating to Definitions), is not available, a contract between an OSP and a call aggregator for the provision of operator services through telephones that are intended for public use shall require the call aggregator to allow “0-” calls and to directly, without charge to the calling party, route all “0-” calls to an OSP that provides access to emergency services that meet the technical standards set forth in paragraphs (1)-(6) of this subsection. The OSP shall:

- (1) identify the originating telephone number and the location of the originating telephone, except dominant certificated telecommunications utilities (DCTUs) shall be allowed to identify the location using internal sources such as repair service or business office records if such internal sources are accessible to operators for emergency purposes 24 hours a day;

- (2) have a complete and current list of all emergency service provider telephone numbers for each NPA-NXX served, including, but not limited to, police or sheriff, fire, and ambulance;
- (3) be available 24 hours a day, seven days a week, without requiring a coin or credit card;
- (4) promptly connect the appropriate emergency service provider;
- (5) stay on the line until such time as the operator determines that the caller has been connected to the proper emergency service provider; and
- (6) require that the call aggregator make a test call when equipment providing access to the OSP is installed, serviced, or relocated and at least semi-annually from each originating telephone number subscribed to the OSP, in order to verify the originating telephone number and the location of the telephone, unless the OSP receives automatic number identification (ANI), as defined in §26.5 of this title (relating to Definitions) for that telephone number.

~~(d)~~(e) When and where available, use of end user choice is required.

~~(e)~~(d) The requirements of this section shall not apply to telephones located in confinement facilities.

~~(f)~~(e) Nothing in this section shall be deemed to require the initial routing of “0-” calls from pay telephones owned by a local exchange company that provides access to emergency service providers and that meets the requirements enumerated in §26.315

of this title (relating to Requirements for Dominant Certificated Telecommunications Utilities (DCTUs)) to any OSP other than the local exchange company itself.

§26.342. Pay Telephone Service Tariff Provisions.

(a) **Application.** This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

(b)(a) **Available upon request.** Upon formal request for service by any prospective provider of pay telephone service (PTS), a certificated telecommunications utility (CTU) is required to file a tariff providing for interconnection of customer-owned pay telephones, except as otherwise provided in subsection ~~(c)(b)~~ of this section.

~~(c)(b)~~ **Special assembly tariffs.** A CTU with fewer than 50 pay telephone lines may provide pay telephone access service (PTAS) pursuant to existing special assembly tariffs; however, in no event may a CTU provide to more than ten special assembly arrangements. Special assembly rates must be computed in accordance with this section. CTUs that provide PTAS pursuant to special assembly tariffs must enter into a written agreement with the PTS provider that requires the provider to perform all functions and obligations specified in §26.344 of this title (relating to Pay Telephone Service Requirements). When a CTU that holds a certificate of convenience and necessity (CCN) makes its initial filing to offer PTAS, the application must include the proposed tariff, cost studies or a commission approved rate for similar services offered by a larger CTU holding a CCN.

(d)(e) Enforcement of tariff requirements. If a PTS provider is in violation of a tariff provision, the CTU must notify the PTS provider of the violation in writing. Such notice must refer to the specific tariff provisions being violated. The notice must state that the PTS provider is subject to disconnection by the CTU of the instrument(s) in violation of the tariff unless the PTS provider corrects the violation and notifies the CTU in writing, within 20 days of receipt of the notice of the violation, that the violation has been corrected. The CTU may disconnect the instrument(s) that are in violation of the tariff on or after the 20th day after receipt of the notice by the PTS provider, if the PTS provider did not notify the CTU in writing within 20 days of receipt of the notice that the violation was corrected. However, if the PTS provider has filed a complaint with the commission regarding the disconnection and has provided the CTU with a copy of the complaint that indicates that the complaint has been filed with the commission within 20 days of receipt of the notice of a violation from the CTU, the CTU may not disconnect the instrument(s) pending resolution of the complaint by the commission.

§26.406. Implementation of the Public Utility Regulatory Act §56.025.

(a) (No change.)

(b) **ApplicationApplicability.** An incumbent local exchange company (ILEC) serving fewer than 31,000 access lines and each cooperative serving fewer than 31,000 access lines, and that on June 1, 2013, is not an electing company under PURA Chapter 58 or 59, may seek to recover funds from the Texas Universal Service Fund (TUSF) under this section in the following circumstances:

(1) - (4) (No change.)

(5) **Distribution of support.** After December 31, 2013, the commission may not distribute support granted under this section, including any support granted before that date, to a local exchange company or cooperative that serves greater than 31,000 access lines or that is an electing company under PURA Chapters 58 or 59 on June 1, 2013.

(c) **Requirements of the ILEC.**

(1) **Burden of proof.** The ILEC seeking to recover funds from the TUSF under this section has the burden of proof. ~~A revenue requirement showing is not required with respect to disbursements from the TUSF under this section.~~

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

(d) - (e) (No change.)

§26.417. Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF).

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

(c) **Criteria for designation of ETPs.**

(1) **Telecommunications providers.** A telecommunications provider, as defined in the Public Utility Regulatory Act (PURA) §51.002(10), shall be eligible to receive TUSF support pursuant to §26.403 or §26.404 of this title in each service area for which it seeks ETP designation if it meets the following requirements:

(A) (No change.)

(B) the telecommunications provider defines its ETP service area pursuant to subsection (b) of this section and assumes the obligation to offer any customer within an exchange in its ETP service area, for which the provider receives support under this section, basic local telecommunications services, as defined in §26.403 of this title, at a rate not to exceed 150% of the ILEC's tariffed rate;

(C) (No change.)

(D) the telecommunications provider renders continuous and adequate service within an exchange in its~~the area or areas, for which the commission has designated it an~~ ETP service area for which the provider receives support under this section, in compliance with the quality of service standards defined in §26.52 of this title (relating to

Emergency Operations), §26.53 of this title (relating to Inspections and Tests), and §26.54 of this title (relating to Service Objectives and Performance Benchmarks);

(E) - (F) (No change.)

(2) (No change.)

(d) - (i) (No change.)

§26.418. Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds.

(a) (No change.)

(b) **ApplicationApplicability.** This section applies to a common carrier seeking designation as an ETC, except for commercial mobile radio service (CMRS) resellers. A CMRS reseller may not seek designation from the commission, but instead may seek designation as an ETC by the Federal Communications Commission (FCC). This section also applies to a common carrier that has been designated by the commission as an ETC, including a CMRS reseller. Subsection (i) of this section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

(c) - (l) (No change.)

§26.420. Administration of Texas Universal Service Fund (TUSF).

(a) (No change.)

(b) **Programs included in the TUSF.**

(1) - (5) (No change.)

(6) Section 26.412 of this title (relating to Lifeline Service-~~Program and Link Up Service Programs~~);

(7) - (14) (No change.)

(15) Section 26.424 of this title (relating to Audio Newspaper Assistance Program).

(c) **Responsibilities of the commission.** The commission is the official governing agency for the TUSF, but may delegate the ministerial functions of TUSF administration to another entity (the TUSF administrator) through contractual agreement.

(1) - (5) (No change.)

(6) **Audit STAP voucher payments and expenditures.** The commission shall audit voucher payments and other expenditures made under the STAP program.

(d) (No change.)

(e) **Determination of the amount needed to fund the TUSF.**

(1) **Amount needed to fund the TUSF.** The amount needed to fund the TUSF shall be composed of the following elements.

(A) Costs of TUSF programs. The TUSF administrator shall compute and include the costs of the following TUSF programs:

(i) - (v) (No change.)

(vi) Lifeline Service ~~and Link-Up Service Program~~, §26.412 of this title;

(vii) - (viii) (No change.)

(ix) Audio Newspaper Assistance Program, §26.424 of this title.

(B) - (C) (No change.)

(2) (No change.)

(f) (No change.)

(g) **Disbursements from the TUSF to ETPs, ILECs, other entities and agencies.**

(1) **ETPs, ILECs, other entities, and agencies.**

(A) - (B) (No change.)

(C) Other entities. The commission shall determine whether other entities qualify to receive funds from the TUSF. Entities qualifying for the following programs are eligible to receive funds from the TUSF:

(i) - (ii) (No change.)

(iii) Audio Newspaper Assistance Program.

(D) Agencies. The commission, the Texas Department of Aging and Disability~~Human~~ Services, the Texas Department of Assistive and Rehabilitative Services~~Commission for the Deaf and Hard of Hearing~~, and the TUSF administrator are eligible for reimbursement of the costs directly and reasonably associated with the implementation of the provisions of PURA Chapters 56 and 57.

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

(h) - (j) (No change.)

§26.421. Designation of Eligible Telecommunications Providers to Provide Service to Uncertificated Areas.

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

(c) **Application.** This section applies to telecommunications providers that have been designated ETPs by the commission pursuant to §26.417 of this title. This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

(d) - (l) (No change.)

§26.422. Subsequent Petitions for Service in Uncertificated Areas.

(a) This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

~~(b)(a)~~ If the commission approves a petition requesting service, residents of permanent residential premises or owners of permanent residential or business premises in reasonable proximity to the premises that were the subject of an approved petition who did not sign the prior petition requesting service are not entitled to receive service under the Public Utility Regulatory Act (PURA), Chapter 56, Subchapter F, prior to the fifth anniversary of the date the prior petition was filed, unless the residents or owners file a new petition and agree to pay aid to construction charges on the same terms as applicable to the prior petitioner(s).

~~(c)(b)~~ The designated provider shall receive reimbursement for the original cost of deployment and actual recurring costs of providing service to those additional residents in the same manner as the provider received reimbursement of those costs in relation to the prior petitioner(s). The provider may not receive reimbursement for the original cost of deployment under a subsequent petition if the provider previously received complete reimbursement for those costs from the Texas Universal Service Fund (TUSF). If the TUSF has completely reimbursed the original cost of deployment as provided by §26.421 of this title (relating to Designation of Eligible

Telecommunications Providers to Provide Service to Uncertificated Areas), each subsequent petitioner must pay into the TUSF an amount equal to the aid to construction charge paid by each prior petitioner.

§26.423. High Cost Universal Service Plan for Uncertificated Areas where an Eligible Telecommunications Provider (ETP) Volunteers to Provide Basic Local Telecommunications Service.

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

(c) **Application.** This section applies to telecommunications providers that have been designated ETPs by the commission pursuant to §26.417 of this title. This section does not apply to a deregulated company holding a certificate of operating authority or to a qualified nondominant telecommunications utility under Public Utility Act (PURA) §52.154.

(d) - (g) (No change.)

§26.431. (Repealed) Monitoring of Certain 911 Fees.

~~(a) **Purpose.** The purpose of this section is to implement the commission's statutory requirement to monitor the fees the Commission on State Emergency Communications (CSEC) establishes and the allocation of the revenues from such fees pursuant to Texas Health and Safety Code §§771.071, 771.072, and 771.0725.~~

~~(b) CSEC shall:~~

~~(1) provide documentation to the commission regarding the rate for the fees authorized in Texas Health and Safety Code §771.071 and §771.072, and the allocation of revenue pursuant to §771.072(d) and (e) including, but not limited to, documentation from each regional planning commission or other public agency designated by the regional planning commission to provide 9-1-1 service;~~

~~(2) complete direct mail notice, no later than the fifteenth day after providing its documentation to the commission, to the municipalities and counties whose 9-1-1 service fees are established by CSEC; and~~

~~(3) publish in the *Texas Register* notice of its proposed rates and allocation of revenue, no later than the fifteenth day after CSEC provides its documentation to the commission.~~

~~(c) Interested parties shall file, not later than 45 days after CSEC publishes notice in the *Texas Register*, comments on CSECs' documentation and on the appropriateness of~~

~~the rates for each fee and the allocation of the revenue pursuant to Texas Health and Safety Code §771.072(d).~~

~~(d) The commission will review the documentation, rates and revenue allocations provided by CSEC and any comments submitted. If the commission determines that a proposed rate or allocation is not appropriate, it shall provide comments to CSEC, the governor, and the Legislative Budget Board within 120 days of CSECs' initial filing. The commission's comments shall explain its concerns, if any.~~

~~(e) The commission may review and make comments regarding a rate or allocation under this section in an informal proceeding. A proceeding in which a rate or allocation is reviewed is not a contested case for purposes of Texas Government Code, Chapter 2001. A review of a rate or allocation is not a rate change for purposes of Texas Utilities Code, Chapter 36 or 53.~~

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

**ISSUED IN AUSTIN, TEXAS ON THE 18th DAY OF NOVEMBER, 2013 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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