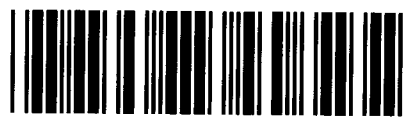




Control Number: 40521



Item Number: 7

Addendum StartPage: 0

DOCKET NO. 40521

***Commission Staff's Petition to Establish a Reasonable Rate for Basic Local
Telecommunications Service Pursuant to P.U.C. SUBST. R. 26.403***

AFFIDAVIT OF MS. JACQUELYN CALDWELL

July 11, 2012

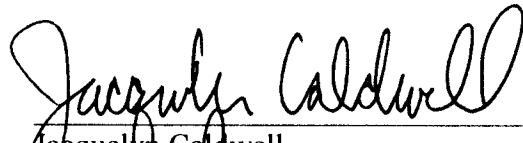
THE STATE OF TEXAS

COUNTY OF TRAVIS

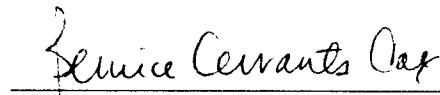
ON THIS DAY, before me, the undersigned authority, personally appeared Jacquelyn Caldwell who on her oath state as follows:

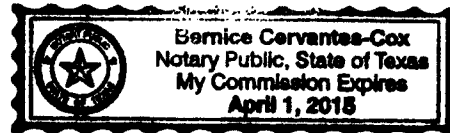
1. My name is Jacquelyn Caldwell. I am employed as a Legal Assistant in the Legal Division of the Public Utility Commission of Texas (PUCT).
2. I am at least 21 years of age, fully competent to make this statement, and authorized to make the statements herein. Additionally, I have personal knowledge of the facts stated herein, and they are true and correct to the best of my knowledge.
3. On July 2, 2012, the Staff of the PUCT (Staff) filed a Notice to Interested Parties of Staff's intent to initiate a proceeding to establish a reasonable rate for Basic Local Telecommunications Service (BLTS) pursuant to P.U.C. SUBST. R. 26.403, relating to the High Cost Universal Service Plan (THCUSP). The proceeding was assigned PUCT Docket No. 40521.
4. On July 2, 2012, Staff provided copies of its Notice to Interested Parties to all commenters in Project No. 39937, which adopted a new version of P.U.C. SUBST. R. 26.403 relating to the THCUSP, all parties to Docket No. 34723, relating to the revision of monthly per-line support amounts from the THCUSP, all eligible telecommunications providers (ETPs) receiving THCUSP support under P.U.C. SUBST. R. 26.403, the Texas Statewide Telephone Cooperative, Inc. (TSTCI), the Texas Telephone Association (TTA), TEXALTEL, and the Texas Cable and Telephone Association (TCTA) by either facsimile or direct mail. A copy of Staff's Notice to Interested Parties is attached as Attachment "A."
5. On July 9, 2012, Staff filed its Original Petition to initiate a proceeding to establish a reasonable rate for BLTS pursuant to P.U.C. Subst. R. 26.403.
6. On July 9, 2012, Staff provided individual copies of its Petition to the same entities that it provided copies of its Notice to Interested Parties by either facsimile or direct mail. A copy of Staff's Original Petition is attached as Attachment "B."

7. Thereby, through the aforementioned notice, I hereby verify that Staff completed the provision of notice in the above-referenced proceeding as set forth in Staff's Original Petition.


Jacquelyn Caldwell
Legal Assistant-Legal Division
Public Utility Commission of Texas

SUBSCRIBED AND SWORN TO before me, on this the 11 day of July, 2012.


NOTARY PUBLIC in and for the State of Texas



Notary without Bond

Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Rolando Pablos
Commissioner

Brian H. Lloyd
Executive Director



Rick Perry
Governor

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PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

July 2, 2012

Notice to Interested Parties

RE: *Commission Staff's Petition to Establish a Reasonable Rate for Basic Local Telecommunications Service Pursuant to P.U.C. SUBST. R. 26.403, Docket No. 40521, Notice of Intent to File Petition*

On July 9, 2012, Commission Staff (Staff) will be filing a petition to initiate a proceeding to establish a reasonable rate for Basic Local Telecommunications Service (BLTS) pursuant to P.U.C. SUBST. R. 26.403, relating to the High Cost Universal Service Plan (THCUSP). The purpose of this proceeding is to determine a reasonable rate for BLTS, as well as to calculate the amount of additional revenue that would result if each incumbent local exchange carrier (ILEC) eligible telecommunications provider (ETP), using line counts as of the end of the month immediately prior to this proceeding, were to charge the reasonable rate for BLTS to all residential customers. This amount will be used to calculate the total annual reductions for each ILEC ETP's base support under the THCUSP over a four-year period. This Petition will be filed under a new version of P.U.C. SUBST. R. 26.403 that will become effective on July 9, 2012. This proceeding has been assigned Docket Number 40521.

This proceeding will establish a reasonable rate for BLTS, as well as calculate the amount of additional revenue that would result if each ILEC ETP charged the reasonable rate in order to calculate the annual reductions to their THCUSP base support. ILEC ETPs will subsequently have the opportunity, but are not required, to raise their rates for BLTS up to the reasonable rate by the corresponding amount of their annual reductions in THCUSP base support in separate proceedings. However, this proceeding will not directly result in any changes to customer rates. As such, only ETPs currently receiving funds from the THCUSP will be directly affected.

Staff is providing this letter to provide notice to all interested parties regarding the initiation of this proceeding on July 9, 2012, as well as the proposed July 23, 2012 intervention deadline. Senate Bill 980 (S.B. 980), as enacted in the 82nd Legislative Session, required the Commission to review and evaluate whether the TUSF accomplishes the fund's purposes, and to determine each provider's need for universal service fund support. At the December 8, 2011 Open Meeting, the Commission approved a work plan for several projects relating to the TUSF to fulfill the directives contained in S.B. 980. In particular, this work plan contemplated that the Commission would complete its review and evaluation of the

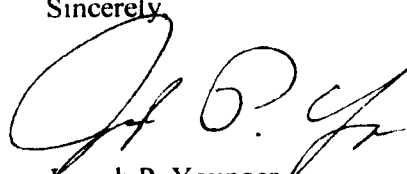
THCUSP, including all rulemakings and contested proceedings by November 1, 2012.¹ To meet this deadline, Staff will be proposing the following procedural schedule in its July 9, 2012 petition:

<u>Proposed Procedural Schedule</u>	
Staff's Notice of Creation of Docket No. 40521	July 2, 2012
Staff's Petition	July 9, 2012
Agreed Deadline for Certain Parties to File Requested Data	July 11, 2012
Deadline for Parties to file Election Statement pursuant to P.U.C. SUBST. R. 26.403(e)(6).	July 19, 2012
Deadline for Parties to File Proposed Reasonable Rate Calculations	July 23, 2012
Intervention Deadline	July 23, 2012
Deadline for Parties to Submit Notice of Settlement or Request a Hearing	August 20, 2012

Because of the expedited nature of this proceeding, Staff is formally providing notice to interested parties of Staff's intent to initiate this proceeding now. Staff will serve copies of this letter and its original petition on all commenters in Project No. 39937, which adopted a new version of P.U.C. SUBST. R. 26.403 relating to the THCUSP. Staff will further serve copies of this letter and its petition on all parties to Docket No. 34723, relating to the revision of monthly per-line support amounts from the THCUSP. Staff finally plans to serve copies of this letter and its petition on all ETPs receiving THCUSP support under P.U.C. SUBST. R. 26.403, the Texas Statewide Telephone Cooperative, Inc. (TSTCI), the Texas Telephone Association (TTA), TEXALTEL, and the Texas Cable and Telephone Association (TCTA).

Please contact me at (512) 936-7292 or by e-mail at joseph.younger@puc.state.tx.us if you have any questions regarding this request. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the Commission's Customer Assistance Hotline at (512) 936-7136 or toll free at (800) 735-2989. Your assistance in this matter is greatly appreciated.

Sincerely,



Joseph P. Younger
Attorney – Legal Division

¹ Open Meeting Tr. at 25 (Dec. 8, 2012).

DOCKET NO. 40521

**COMMISSION STAFF'S PETITION § PUBLIC UTILITY COMMISSION
TO ESTABLISH A REASONABLE §
RATE FOR BASIC LOCAL § OF TEXAS
TELECOMMUNICATIONS SERVICE §
PURSUANT TO P.U.C. SUBST. R. §
26.403**

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COMMISSION STAFF'S ORIGINAL PETITION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Petition to Initiate a Proceeding to Establish a Reasonable Rate for Basic Local Telecommunications Service (BLTS) pursuant to P.U.C. SUBST. R. 26.403, relating to the High Cost Universal Service Plan (THCUSP), and would show the following:

I. BUSINESS ADDRESS AND AUTHORIZED REPRESENTATIVES

Staff's business address is 1701 North Congress Avenue, P.O. Box 13326, Austin, TX 78711-3326. Staff's authorized legal representative and designated recipient for service of pleadings and other documents is:

Joseph P. Younger
State Bar No. 24037761
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

II. PURPOSE AND JURISDICTION

The purpose of this proceeding is to determine a reasonable rate for BLTS, as well as to calculate the amount of additional revenue that would result if each incumbent local exchange carrier (ILEC) eligible telecommunications provider (ETP), using line counts as of the end on the month immediately prior to the initiation of this proceeding, were to charge the reasonable rate for BLTS to all residential customers. This amount will be used to calculate the total annual reductions for each ILEC ETP's base support under the THCUSP over a four-year period. This Petition is filed under P.U.C. SUBST. R. 26.403.

III. AFFECTED PERSONS

This proceeding will establish a reasonable rate for BLTS, as well as to calculate the amount of additional revenue that would result if each ILEC ETP charged the reasonable rate to residential customers in order to calculate the annual reductions to their THCUSP base support.

ILEC ETPs will subsequently have the opportunity, but are not required, to seek to raise their rates for BLTS up to the reasonable rate by the corresponding amount of their annual reductions in THCUSP base support in separate proceedings. However, this proceeding will not directly result in any changes to customer rates. As such, only ETPs currently receiving funds from the THCUSP will be affected by this proceeding. The territories affected by this proceeding will be the exchanges of ILEC ETPs that receive funds from the THCUSP. The list of ETPs currently receiving funds from the THCUSP is attached as Attachment "A."

IV. BACKGROUND

Senate Bill 980 (S.B. 980), as enacted in the 82nd Legislative Session, requires the Commission to review and evaluate whether the TUSF accomplishes the fund's purposes, and to determine each provider's need for universal service fund support. At the December 8, 2011 Open Meeting, the Commission approved a work plan for several projects relating to the TUSF to fulfill the directives contained in S.B. 980. In particular, this work plan contemplated that the Commission would complete its review and evaluation of the THCUSP, including all rulemakings and contested proceedings by November 1, 2012.¹

Pursuant to this legislative mandate and work plan, the Commission opened a rulemaking, Project No. 39937, in order to review and evaluate the THCUSP.² After receiving comments, holding a workshop, meeting with a number of stakeholders, and conducting its own review of the THCUSP, the Commission ultimately adopted a new version of P.U.C. SUBST. R. 26.403 on June 18, 2012. The new rule became effective on July 9, 2012. The new rule provides for the reduction in support for ETPs from the THCUSP based on the difference between the ETP's current rates and a reasonable rate to be determined by the Commission in a subsequent contested case.³ The rule further contemplates that each ILEC ETP will calculate the amount of additional revenue it would receive under this reasonable rate based on line counts as of the end of the month preceding the effective date of the rule (in this case, June 30, 2012) for BLTS provided to residential customers.⁴ This amount would then be used to calculate each

¹ Open Meeting Tr. at 25 (Dec. 8, 2012).

² *Rulemaking to Consider Amending Subst. R. § 26.403, Relating to the Texas High Cost Universal Service Plan and Subst. R. §26.412, Relating to the Lifeline Service Program*, Project No. 39937.

³ P.U.C. SUBST. R. 26.403(e)(2).

⁴ P.U.C. SUBST. R. 26.403(e)(3).

ILEC ETP's annual reductions in THCUSP base support. The rule finally provided an option whereby an ILEC ETP can elect to reduce its support to zero over a five-year period by filing notice of such election with the Commission within ten days of the effective date of the new P.U.C. SUBST. R. 26.403.⁵ Staff now files this petition to initiate the contested case contemplated by the new version of P.U.C. SUBST. R. 26.403.

V. ISSUES

Staff believes that the issues to be addressed in this proceeding are as follows:

1. What is/are the reasonable rate(s) for BLTS pursuant to P.U.C. SUBST. R. 26.403(e)(2)?
 - a. What is the appropriate geographic scope of the reasonable rate(s) to be determined in this proceeding (i.e., statewide, company-specific, exchange-specific)?
 - b. What is the appropriate methodology for calculating the reasonable rate(s) for BLTS?
 - c. Should the Commission consider the impact of the reasonable rate on the level of rate increases that residential customers may potentially experience if ETPs subsequently elect to increase their rates for BLTS up to the reasonable rate?
 - d. Should the Commission consider the impact of the reasonable rate adopted in this proceeding on P.U.C. SUBST. R. 26.412, relating to the Lifeline program?
2. What is the amount of revenue each ILEC ETP would receive if it were to charge, based on line counts as of the end of the month preceding the effective date of the new P.U.C. SUBST. R. 26.403, the reasonable rate for BLTS to all residential customers for those services where the price, or imputed price, are below the reasonable rate? What is the annual and cumulative amount of the reduction in THCUSP support for the ILEC ETP that results from this calculation?

VI. PROPOSED PROCEDURAL SCHEDULE

The Commission's proposed work plan for the THCUSP requires this proceeding to be completed by November 1, 2012. Given this expedited timeframe for resolving this case, Staff filed a notice of intent to initiate this proceeding on July 2, 2012. Staff served this letter on all parties indicated in Section VII regarding notice below. Staff proposes, therefore, that the

⁵ P.U.C. SUBST. R. 26.403(e)(6).

Intervention Deadline in this proceeding be set on July 23, 2012, which is 21 days from the date interested parties first received notice of this proceeding.

After consultation with a number of stakeholders involved in the recent rulemaking adopting the new version of P.U.C. SUBST. R. 26.403, all affected ILEC ETPs and certain other entities have agreed to submit initial information regarding their current rates in order to assist all parties in setting a reasonable rate for BLTS in this proceeding. This information includes: (1) the most recently available rates charged by each party per wire-center; (2) the most recently available THCUSP per-line support amounts received by each party per wire-center; and (3) the most recently available line count for each of the party's wire centers. These entities have agreed to file this information by July 11, 2012.

P.U.C. SUBST. R. 26.403(e)(6) requires ILEC ETPs wishing to participate in the Total Support Reduction Plan (TSRP) to elect to do so within 10 days of the effective date of the new rule. Accordingly, all affected ILEC ETPs have agreed with Staff that, if they elect to participate in the TSRP, they will file their elections in this docket by the July 19, 2012 deadline.

Finally, Staff requests that the presiding officer require all parties to submit their proposals for a reasonable rate by July 23, 2012. At a minimum, parties should indicate: (1) the amount of the reasonable rate; (2) the appropriate geographic scope of the reasonable rate (i.e., statewide, company-specific, or exchange-specific); (3) the appropriate means to calculate the reasonable rate; and (4) the estimated annual and cumulative impact of the proposed reasonable rate on each affected ILEC ETP's support from the THCUSP.

Accordingly, Staff respectfully proposes that this proceeding be conducted on an expedited basis based on the procedural schedule set forth below:

<u>Proposed Procedural Schedule</u>	
Staff's Notice of Creation of Docket No. 40521	July 2, 2012
Staff's Petition	July 9, 2012
Agreed Deadline for Certain Parties to File Requested Data to Initiate this Proceeding	July 11, 2012
Deadline for Parties to file Election Statement pursuant to P.U.C. SUBST. R. 26.403(e)(6).	July 19, 2012
Deadline for Parties to File Proposed Reasonable Rate Calculations	July 23, 2012
Intervention Deadline	July 23, 2012
Deadline for Parties to Submit Notice of Settlement or Request a Hearing	August 20, 2012

In light of the expedited schedule for this proceeding, Staff further respectfully requests that the presiding officer establish expedited deadlines for discovery responses. Specifically, Staff requests that objections to discovery requests be due within 3 working days and responses to discovery be due within 5 working days of filing.

VII. NOTICE

Staff served notice of the creation of this docket on all commenters in Project No. 39937, which adopted a new version of P.U.C. SUBST. R. 26.403 relating to the THCUSP. Staff further served its notice on all parties to Docket No. 34723, relating to the revision of monthly per-line support amounts from the THCUSP. Staff finally served copies of the notice on all ETPs receiving THCUSP support under P.U.C. SUBST. R. 26.403, the Texas Statewide Telephone Cooperative, Inc. (TSTCI), the Texas Telephone Association (TTA), TEXALTEL, and the Texas Cable and Telephone Association (TCTA). Staff will serve this Original Petition on the same entities.

VIII. PROPOSED PROTECTIVE ORDER

To facilitate the evaluation of any potential confidential and/or highly sensitive information in this proceeding, Staff has prepared a protective order that is attached as Attachment "B." This protective order is substantially the same order adopted by the

Commission in Docket No. 34723.⁶ Staff has also previously circulated the proposed protective order to a number of parties, and no party to date has objected to Staff's proposed protective order. Staff requests that this protective order be adopted in this proceeding.

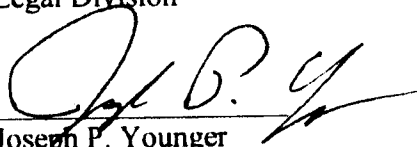
IX. RELIEF REQUESTED

Accordingly, Staff respectfully requests that the presiding officer resolve the issues identified in Section V above, approve Staff's proposed procedural schedule, and grant all other appropriate relief.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Keith Rogas
Deputy Division Director
Legal Division



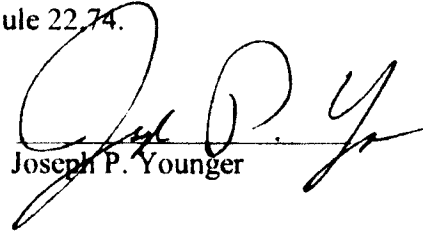
Joseph P. Younger
Attorney-Legal Division
State Bar No. 24037761
(512) 936-7292
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

⁶ *Petition for Review of Monthly Per Line Support Amounts for the Texas High Cost Universal Service Plan Pursuant to PURA § 56.031 and P.U.C. SUBST. R. 26.403, Docket No. 34723, Order No. 8 Modifying Protective Order (Nov. 5, 2007).*

DOCKET NO. 40521

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 9th day of July in accordance with P.U.C. Procedural Rule 22.74.


Joseph P. Younger

ATTACHMENT A

ATTACHMENT "A" : ETP's RECEIVING THC/SP FUNDING

BILLING ADDRESSES FOR ACTIVE COMPANIES

CompanyID	Company Name	Business/Company Address	Company City	Company State	Company Zip	Company Name	Company Email	Company Fax
000446	West Central Wireless (C T Cuba, LLC)	P O Box 901 Road	San Angelo	TX	76902	Jim Whitfield	account@wccp- spur.com	
000500	Central Telephone Co. of Texas, Inc	100 CenturyLink Drive	Monroe	LA	71203	Donna	donna.aulman@cs reunited.com	3183880072
000510	CGKC&I RCLP dba West Central Wireless	P O Box 3007 Road	San Angelo	TX	76902	Charlotte	cbatz@wcc.net	
000615	Verizon Southwest flia GTE Southwest	600 Hidden Ridge, HQE0J116	Irving	TX	75038	Eric	eric.shen@verizon com	
001442	Mir-Tax Cellular Limited	P O Box 3866	SAN ANGELO	TX	76902	Charlotte	CFO.ITZ@WCC.NE	
001987	Southwestern Bell Telephone Company	616 Congress Ave, Suite 1100	Austin	TX	78701	Michaela	michaela.fewellian @att.com	
002137	Texas RSA 1582 Limited Partnership	3389 Knickerbocker Rd	San Angelo	TX	76904	Nellvyn	neadler@vestauser eless.com	8302577711
002280	United Telephone Co of Texas	100 CenturyLink Drive	Monroe	LA	71203	Donna	donna.aulman@cs reunited.com	3183880072
002328	WT Services, Inc	P O Box 1776	Hierford	TX	76045	Richard	richard@wrt.net	
002394	XIT Telecommunications & Technology Inc	P O Box 1432	Dalhert	TX	76022	Tami	tuck@xistcomm.net	
002615	Cumby Telephone Cooperative-CLEC	P O Box 619	Cumby	TX	75433	Rocky	rocky@cumbytel.c om	
002637	Santa Rosa Telephone Cooperative - CLEC	PO Box 2128	Vernon	TX	76385	Jason	jason.tate@arcadia se.net	
003772	ETS Telephone dba En-Touch Systems	11011 Richmond Suite 400	Houston	TX	77042	Jennifer	jenetic@corp.enbou ch.net	
006164	Wae-Tex Telecommunications, Inc. CLEC	PO Box 1329	Stanton	TX	75782	Judy	jduanet@aol.com	
006189	Valor Telecom of TX, dba Windstream SW	4001 Rodney Pattam Rd	Little Rock	AR	72212	Stephanie	stephanie.d.marsh @windstream.com	5017486583
006346	GCEC Technologies	555 N Henry Hynde Expy	Van Alstyne	TX	75406	Shelda	shelda.miam@goec telecom.com	9034627083
006377	Panhandle Telecommunication Systems, Inc	P O Box 511	Guymon	OK	73942	Michael	mike.carter@pic.ne t	
006446	Grande Communications Networks LLC	401 Carlton Circle	San Marcos	TX	78666	Faye	faye.lodge@corp.gr ande.com	
008514	Telefonel Comm Inc dba TNC Comm	Angela Rose	Omaha	NE	68134	Leung	regulatory@telefon el.net	
014331	AMA Communications dbaAMA TechTel Comm	7201 140 West Suite 200	Amarillo	TX	79106	Purdy	dpurdy@amatachael com	
014334	Connections Telecom IFEC Com	P O Box 968	Royce City	TX	75180	Brigit	brigit@connections com	
014828	DallTone Services, LP	P O Box 470910	San Francisco	CA	94147	William	william@daltonetels as.com	
015015	VTX Telecom, LLC	400 South 6th Street	Raymondville	TX	78580	Paula	paula@vtel.net	

ATTACHMENT B

ATTACHMENT "B"

DOCKET NO. 40521

COMMISSION STAFF'S PETITION	§	PUBLIC UTILITY COMMISSION
TO ESTABLISH A REASONABLE	§	
RATE FOR BASIC LOCAL	§	OF TEXAS
TELECOMMUNICATIONS SERVICE	§	
PURSUANT TO P.U.C. SUBST. R.	§	
26.403	§	

PROPOSED PROTECTIVE ORDER

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face "PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 40521" (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.¹ Protected Materials also shall not include documents or

¹ TEX. GOV'T CODE ANN. §§ 552.001-552.353 (Vernon 2004).

information which at the time of, or prior to disclosure in, a proceeding is or was public knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

3. **Reviewing Party.** For the purposes of this Protective Order, a "Reviewing Party" is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party's claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its "Reviewing Representatives" who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party are limited to its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. If needed to resolve a discovery dispute, the Producing Party shall, at a hearing convened for the purpose, provide the Commission with copies of Protected Materials. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.
6. **Highly Sensitive Protected Material Described.** The term "Highly Sensitive Protected Materials" is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such

documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) highly sensitive competitive or trade secret information or customer-specific information protected by §§ 17.051(b), 32.101(c), 56.024 and 64.051(b) of the Public Utility Regulatory Act;² (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive marketing plans; or (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation "HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 40521" (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party's designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.** Except as expressly provided herein, only four copies may be made of any Highly Sensitive Protected Materials except that additional copies may be made upon provision of notice to and consent of the Producing Party or to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party shall maintain a record of all copies made of Highly Sensitive Protected Material and shall send a duplicate of the record to the producing party when the copy or copies are made. The record shall specify the location and the person possessing the copy. Limited notes may be made of Highly

² Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.017 (West 2007 & Supp. 2011) (PURA).

Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, the Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) counsel of record for the Reviewing Party and attorneys associated with counsel of record and directly engaged in this proceeding, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel or, (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who the Producing Party and Reviewing Party have agreed on, or absent such agreement who have been authorized by the presiding officer to review Highly Sensitive Protected Materials, but not including persons involved in the sale or marketing of the Reviewing Party's products or services or with direct responsibility for developing business plans for the Reviewing Party. The Reviewing Party shall limit the number of Reviewing Representatives that review Highly Sensitive Protected Materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to four Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff, OAG, and OPC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as

provided in Paragraph 7. The restrictions contained herein do not apply to Commission Staff, OPC, and the OAG when the OAG is representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.
11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPC, and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPC and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.

13. **Restriction on Copying by Commission Staff, OPC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 40521. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of

such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party shall provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in this proceeding, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.
17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials,

a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.

18. **Procedures Regarding Voluminous Protected Materials.** P.U.C. PROC. R. 22.144(h) will govern production of voluminous Protected Materials. Unless otherwise agreed by the parties, voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.
21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without

limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPC.

22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.
23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the

information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.

24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order**

Holding Materials are not Protected Materials. In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.

25. **Notice of Intent to Use Protected Materials or Change Materials Designation.**

Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. 40521 at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.
27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.
28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have

a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.** Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.
30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.
31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to

the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, "conclusion of these proceedings" refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the "conclusion of these proceedings" is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,³ the Texas Securities Act⁴ and any other applicable law, provided that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

³ TEX. GOV'T CODE ANN. § 551.001-551.146 (Vernon 2004 & Supp. 2011).

⁴ TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-43 (Vernon 1964 & Supp. 2011).

33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
34. **Best Efforts Defined.** The term "best efforts" as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of §552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing

that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

35. **Notify Defined.** "Notify" for purposes of Paragraphs 32, 33 and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission, OAG, or OPC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party's argument for non-disclosure shall do so within five working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to

Paragraph 36, the presiding officer may sanction the producing party pursuant to P.U.C. PROC. R. 22.161.

38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

PROTECTIVE ORDER ATTACHMENT A

Protective Order Certification

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 40521. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

Signature

Party Represented

Printed Name

Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

Signature

Party Represented

Printed Name

Date

PROTECTIVE ORDER ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

Signature

Party Represented

Printed Name

Date