



Control Number: 50667



Item Number: 11

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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas



TO: Chairman DeAnn T. Walker
Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Stephen Journeay
Commission Counsel

RE: Certification of Issues
July 2, 2020. Open Meeting

Docket No. 50667 – *Application of Texas Telephone Association for Administrative Approval of Access Service Tariff Under 16 T.A.C. § 26.207*

Docket No. 50853 - *Application of Texas Statewide Telephone Cooperative, Inc. for Administrative Approval of Intrastate Access Service Tariff*

DATE: June 2, 2020

On May 19 and 21, 2020 the administrative law judge in the above referenced dockets requested certification to the Commission of the identical questions as set out in the attached orders.

Under 16 Texas Administrative Code § 22.127 (TAC), the Commission shall consider this request for certification at an open meeting that is not earlier than twenty days after its submission. For this reason, I have set this case for your consideration at the **July 2, 2020**, open meeting. The requirement of 16 TAC § 22.127(d), that the Commission shall issue a written decision on the certified issues within thirty days of its submission is waived.

The parties were ordered by the administrative law judge to file briefs or additional briefs on the certified issues by June 2 for Docket No. 50667 and by June 3 for docket No. 50853.

cc: All Parties of Record
w/out attachment



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DOCKET NO. 50667

APPLICATION OF TEXAS
TELEPHONE ASSOCIATION FOR
ADMINISTRATIVE APPROVAL OF
ACCESS SERVICE TARIFF UNDER
16 TAC § 26.207

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PUBLIC UTILITY COMMISSION

OF TEXAS



**ORDER NO. 2
CERTIFYING AN ISSUE TO THE COMMISSION**

On March 16, 2020, the Texas Telephone Association (TTA) filed an application seeking approval of a proposed tariff, to be issued in TTA's name, under which its members would provide intrastate access services.

In Order No. 1 filed on April 29, 2020, the administrative law judge (ALJ) identified issues that he believed required consideration before further processing of the application. The ALJ requested briefing on the following issues:

1. Under the Commission's rules, "*Every public utility* shall file with the commission filing clerk five copies of its tariff containing schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its utility service when it applies for a certificate of convenience and necessity to operate as a public utility. *It* shall also file five copies of each subsequent revision."¹ Does TTA's application comply with the Commission's rules,² which appears to require each public utility to file a tariff or tariff revision on an individual basis?
2. Does any statute or rule authorize a representative to file on behalf of multiple certificate of convenience and necessity (CCN) holders a proposed tariff that is applicable to multiple CCN holders?
3. Under PURA³ § 52.251(a), "A public utility shall file with the commission a tariff showing each rate that is: (1) subject to the commission's jurisdiction; and (2) in effect for a utility service, product, or commodity *offered by the utility*."⁴ Does TTA's requested tariff comply with state law if it contains rates for services,

¹ 16 Texas Administrative Code (TAC) § 26.207(d)(1) (emphasis added).

² *Id.*

³ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

⁴ Emphasis added.

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products, or commodities that are not uniformly applicable to all of the CCN holders listed in the tariff?

4. Does any statute or rule authorize the Commission to issue a tariff to be held by a representative, in the representative's name, on behalf of multiple CCN holders who would then charge various different rates for services, products, or commodities on an individual basis?

On May 11, 2020, TTA, joined by Commission Staff, filed a brief in response to Order No. 1. After considering the arguments presented in TTA's brief, the ALJ believes the questions are appropriate issues for certification to the Commission under 16 TAC § 22.127(b)(3). Accordingly, under 16 TAC § 22.127(a), the ALJ certifies to the Commission the questions posed above.

If any party wishes to file additional briefing on the certified issues, it must do so by June 2, 2020.

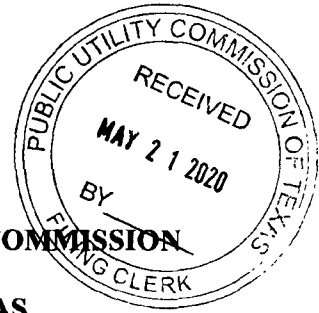
Signed at Austin, Texas the 19th day of May 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

TARIFF CONTROL NO. 50853



**APPLICATION OF TEXAS
STATEWIDE TELEPHONE
COOPERATIVE, INC. FOR
ADMINISTRATIVE REVISIONS TO
ITS INTRASTATE ACCESS SERVICES
TARIFF**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**ORDER NO. 1
CERTIFYING AN ISSUE TO THE COMMISSION**

On May 15, 2020, the Texas Statewide Telephone Cooperative, Inc. (TSTC) filed an application seeking revisions to its intrastate access service tariff, to be issued in TSTC's name, under which its members would provide intrastate access services.

The administrative law judge (ALJ) identified the following issues that he believes require consideration before further processing of the application:

1. Under the Commission's rules, "*Every public utility* shall file with the commission filing clerk five copies of its tariff containing schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its utility service when it applies for a certificate of convenience and necessity to operate as a public utility. *It* shall also file five copies of each subsequent revision."¹ Does TSTC's application comply with the Commission's rules,² which appears to require each public utility to file a tariff or tariff revision on an individual basis?
2. Does any statute or rule authorize a representative to file on behalf of multiple certificate of convenience and necessity (CCN) holders a proposed tariff that is applicable to multiple CCN holders?
3. Under PURA³ § 52.251(a), "A public utility shall file with the commission a tariff showing each rate that is: (1) subject to the commission's jurisdiction; and (2) in effect for a utility service, product, or commodity *offered by the utility*."⁴ Does TSTC's requested tariff comply with state law if it contains rates for services,

¹ 16 Texas Administrative Code (TAC) § 26.207(d)(1) (emphasis added).

² *Id.*

³ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

⁴ Emphasis added.

products, or commodities that are not uniformly applicable to all of the CCN holders listed in the tariff?

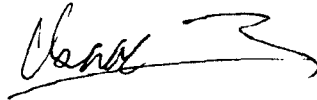
4. Does any statute or rule authorize the Commission to issue a tariff to be held by a representative, in the representative's name, on behalf of multiple CCN holders who would then charge various different rates for services, products, or commodities on an individual basis?

The ALJ believes the questions are appropriate issues for certification to the Commission under 16 TAC § 22.127(b)(3). Accordingly, under 16 TAC § 22.127(a), the ALJ certifies to the Commission the questions posed above.

If any party wishes to file briefing on the certified issues, it must do so by June 3, 2020.

Signed at Austin, Texas the 21st day of May 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



ISAAC TA
ADMINISTRATIVE LAW JUDGE