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# OPEN MEETING COVER SHEET

## MEMORANDUM AND PROPOSAL FOR PUBLICATION

**MEETING DATE:** September 28, 2023

**DATE DELIVERED:** September 26, 2023

**AGENDA ITEM NO.:** #11

**CAPTION:** Project No. Project No. 54589 – *Rule Review of Chapter 26 Substantive Rules Applicable to Telecommunications Service Providers*

**DESCRIPTION:** Memo and Proposal for Publication

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Interim Chair Kathleen Jackson  
Commissioner Will McAdams  
Commissioner Lori Cobos  
Commissioner Jimmy Glotfelty

**FROM:** Mackenzie Arthur, Attorney, Rules and Projects

**DATE:** September 26, 2023

**RE:** September 28, 2023 Open Meeting – Agenda Item No. 21  
Project No. 54589 *Rule Review of Chapter 26 Substantive Rules Applicable to Telecommunications Service Providers*

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Please find attached to this memorandum Commission Staff's proposal for publication in the above-referenced project for consideration at the September 28 2023 Open Meeting. Commission Staff proposes amendments and repeals to the Telecommunications Substantive Rules in Chapter 26, 16 Texas Administrative Code. The purpose of these proposed changes is to review the commission's existing rules in accordance with Texas Government Code § 2001.039 and feedback provided from the Texas Sunset Commission in the 2022-2023 fiscal year. Commission Staff's proposal implements legislation from the 88th Legislative Session and feedback from stakeholders. The proposal also revises Chapter 26 to improve clarity and conform with current commission style and word usage, as well as modern filing and communication practices. Commission Staff also proposes corresponding changes to certain commission prescribed forms.

Commission Staff recommends the Commission approve this draft for publication in the *Texas Register*.

**PROJECT NO. 54589**

**RULE REVIEW OF CHAPTER 26 -  
SUBSTANTIVE RULES APPLICABLE  
TO TELECOMMUNICATIONS  
SERVICE PROVIDERS**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**PROPOSAL FOR PUBLICATION OF RULE REPEALS AND AMENDMENTS TO  
CHAPTER 26 SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS  
SERVICE PROVIDERS FOR CONSIDERATION AT THE SEPTEMBER 28, 2023 OPEN  
MEETING**

1

2 The Public Utility Commission of Texas (commission) proposes rule repeals of and amendments  
3 to multiple sections of its Chapter 26 Substantive Rules, Applicable to Telecommunication Service  
4 Providers for consideration at the September 28, 2023 Open Meeting. The specific proposed  
5 repeals and amendments are detailed below. The commission also proposes corresponding  
6 revisions to commission forms.

7

8 **Rule Review Stakeholder Recommendations**

9 On February 10, 2023, commission staff filed a preliminary notice and request for comments in  
10 this project. Comments were received by the Commission on State Emergency Communications,  
11 the Texas Cable Association, the Texas Statewide Telephone Cooperative, Inc., and the Texas  
12 Telephone Association. Based upon filed comments and an internal review by commission staff,  
13 the commission proposes the following rule changes.

14

15 The proposed changes would repeal 16 Texas Administrative Code (TAC) §26.55, relating to  
16 Monitoring of Service, §26.78, relating to State Agency Utility Account Information, §26.87,  
17 relating to Infrastructure Reports, and §26.142, relating to Integrated Services Digital Network.

1

2 The proposed changes would make minor and confirming changes to the following rules, such as

3 updating contact resources used by individuals with hearing or speech difficulties or removing

4 requirements to file multiple copies of a document with the commission: §26.31, relating to

5 Disclosures to Applicants and Customers; §26.34, relating to Telephone Prepaid Calling Services,

6 §26.73, relating to Annual Earnings Reports; §26.79 relating to Equal Opportunity Reports;

7 §26.127, relating to Abbreviated Dialing Codes; §26.129, relating to Caller Identification Services;

8 §26.130, relating to Selection of Telecommunications Utilities; §26.171, relating to Small

9 Incumbent Local Exchange Company Regulatory Flexibility; §26.175, relating to Reclassification

10 of Telecommunications Services for Electric Incumbent Local Exchange Companies (ILECs);

11 §26.214, relating to Long Run Incremental Cost (LRIC) Methodology for Services provided by

12 Certain Incumbent Local Exchange Companies (ILECs); §26.215, relating to Long Run

13 Incremental Cost Methodology for Dominant Certificated Telecommunications Utility (DCTU)

14 Services; §26.217, relating to Administration of Extended Area Service (EAS) Requests; §26.221,

15 relating to Applications to Establish or Increase Expanded Local Calling Service Surcharges;

16 §26.224, relating to Requirements Applicable to Basic Network Services for Chapter 58 Electing

17 Companies; §26.276, relating to Unbundling, §26.417, relating to Designation as Eligible

18 Telecommunications Providers to Receive Texas Universal Service Funds (TUSF); §26.418,

19 relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive

20 Federal Universal Service Funds; and §26.419, relating to Telecommunications Resale Providers'

21 Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds

22 (TUSF) for Lifeline Service.

23

1 The proposed changes would amend §26.5, relating to Definitions, by revising §26.5(191), which  
2 defines “public service answering point (PSAP),” to include an emergency communications center.  
3 This is an informal term used frequently by the Commission on State Emergency Communications  
4 (CSEC) and the Federal Communications Commission (FCC) to refer to a PSAP.

5  
6 The proposed changes would amend §26.30, relating to Complaints, and §26.32, relating to  
7 Protection Against Unauthorized Billing Charges, by changing the deadline for, as applicable, a  
8 Certificated Telecommunications Utility (CTU), billing telecommunications utility, a billing  
9 agent, or a service provider to respond to complaints submitted to the commission from 21 days to  
10 15 days. This change is to align with recent changes to customer protection rules in Project 52796.

11  
12 The proposed changes would amend §26.52, relating to Emergency Operations, by requiring  
13 dominant certificated telecommunications utilities (DCTUs) to comply with the backup power  
14 obligations associated with fiber optic cables that are prescribed by federal law or other applicable  
15 regulations, including the requirements of 47 Code of Federal Regulations § 9.20.

16  
17 The proposed changes would amend §26.53, relating to Inspections and Tests, by revising the  
18 requirement for DCTUs to report to the commission the numbers assigned for dial test  
19 terminations. Specifically, such numbers would only have to be provided by the DCTU if  
20 requested by the commission.

21  
22 The proposed changes would amend §26.54, relating to Service Objectives and Performance  
23 Benchmarks, by deleting subparagraph (b) relating to one-party line service and voice band data.

1  
2 The proposed changes would amend §26.80, relating to Annual Report on Historically  
3 Underutilized Businesses, by expanding the list of providers to which the section does not apply  
4 to include any company that holds a certificate of operating authority (COA), a company that holds  
5 a service provider certificate of operating authority (SPCOA) and a registered interexchange  
6 carrier (IXC).

7  
8 The proposed changes would amend §26.85, relating to Report on Workforce Diversity and other  
9 Business Practices, by expanding the list of providers to which the section does not apply to include  
10 any company that holds a COA, a company that holds a SPCOA and a registered IXC.

11  
12 The proposed changes would amend §26.111, relating to Certificate of Operating Authority (COA)  
13 and Service Provider Certificate of Operating Authority (SPCOA) Criteria, by revising paragraph  
14 (i)(4) to require applicants to file SPCOA amendment applications with CSEC via electronic mail  
15 within five working days from the date the amendment was filed. The proposed change to  
16 paragraph (i)(4) would also require applicants to provide notice of the SPCOA amendment  
17 applications to all affected 9-1-1 administrative entities in the manner provided by subparagraphs  
18 (3)(A)-(D). Additionally, the proposed changes would revise paragraph (m)(2) to require a COA  
19 or SPCOA holder that intends to cease operations to provide a copy of its application to cease  
20 operations and relinquish its certificate to CSEC. The commission also proposes minor and  
21 conforming changes to the commission prescribed SPCOA application form.

22

1 The proposed changes would also amend §26.111 and §26.272, relating to Interconnection, by  
2 correcting the reference to “9-1-1 entity” in paragraph §26.111(i)(4) and §26.272(e)(1)(B)(vi)(I)  
3 to properly refer to “9-1-1 administrative entity.”

4  
5 The proposed changes would amend §26.128, relating to Telephone Directories, by replacing the  
6 term State of Texas Telephone Directory with Capitol Complex Telephone System Directory in  
7 paragraphs (b)(1) and (2). The proposed changes would also delete the requirement under  
8 paragraph (e)(5) for telephone directories published by certain telecommunications utilities or its  
9 affiliates to include sample long distance rates.

10  
11 The proposed changes would amend §26.433, relating to Roles and Responsibilities of 9-1-1  
12 Service Providers, by correcting the references to “9-1-1 administrative entity” in paragraph  
13 (i)(1).

#### 14 15 **HB 1597 Implementation**

16 HB 1597, adopted by the 88th Texas Legislature (R.S.), amends the requirements associated with  
17 filing a telecommunications tariff with the commission under PURA §52.251. Specifically, HB  
18 1597 authorizes an affiliate or trade association to, on behalf of a public utility, file a tariff for  
19 telecommunications service with the commission. HB 1597 also provides that a tariff is considered  
20 approved if the commission does not approve or deny the tariff or request supplemental  
21 information from the filer within 60 days from the date the tariff was filed. Lastly, HB 1597  
22 requires the filer to provide supplemental information to the commission within 15 days from the



request and provides that a tariff is considered approved if the commission does not approve or deny the tariff within 30 days from the date the commission receives the supplemental information.

To implement HB 1597, the commission proposes repealing and replacing §26.208, relating to General Tariff Procedures; and proposes amending §26.89, relating to Nondominant Carriers' Obligations Regarding Information on Rates and Services; §26.207, relating to Form and Filing of Tariffs, §26.209, relating to New and Experimental Services; §26.210, relating to Promotional Rates for Local Exchange Company Services; §26.211, relating to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges.

Proposed new §26.208 aligns the general requirements of PURA §52.251, as amended by HB 1597, with the more specific requirements of PURA Chapter 53, Subchapter C (§§53.101-53.113) when a tariff involves a rate change. Proposed new §26.208 also clarifies the requirements for tariff applications, including those related to effective dates and notice to affected persons, and more clearly describes the process for commission review of such applications. To conform with the abridged timeline for commission review and approval imposed by HB 1597, proposed new §26.208 prohibits a tariff application from being docketed, unless the application involves a new tariff or a rate change under PURA Chapter 53, Subchapter C. Sections 26.209, 26.210, and 26.211 would be revised to remove references to docketing of an application filed under those provisions. Additionally, §26.209 and §26.210 would be amended to more clearly indicate that a tariff to which §26.209 or §26.210 apply may be filed in accordance with §26.208. Similarly, §26.207 would be amended to clearly reference §§ 26.208, 26.209, and 26.211. Section 26.211 would be amended to clarify that an informational notice filing in accordance with §26.227, relating to Procedures

Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies, suffices for compliance provided that the notice complies with §26.228, relating to Requirements Applicable to Pricing Flexibility for Chapter 58 Electing Companies or §26.229, relating to Requirements Applicable to Chapter 52 Companies, as applicable. Lastly, §§26.89, 26.207, 26.209, 26.210, and 26.211 would be revised to more clearly reflect the statutory language of PURA §52.251.

#### **SB 1425 and SB 1710 Implementation**

SB 1425, adopted by the 88th Legislature, amends PURA §56.032 to require Small ILECs seeking adjustments from the Small and Rural Plan to, every calendar year, publicly file with the commission operational information concerning the small ILEC's operations that are regulated by the commission. The commission proposes amending §26.407, relating to Small and Rural Incumbent Local Exchange Company Universal Service, to implement HB 1425. The commission also proposes amending the commission prescribed form for the annual report and schedules used by small ILECs, and the associated instructions.

SB 1710 adopted by the 88th Legislature, amends PURA §56.023 to implement revisions to support levels received by eligible telecommunications providers under the High Cost Plan or Small and Rural Plan of the Texas Universal Service Fund (TUSF). SB 1710 also revises eligibility criteria for receipt of support from the TUSF and requires the commission to periodically review such criteria. Lastly, SB 1710 adds provisions for expiration and relinquishment of support from the TUSF. The commission proposes amending §26.403, relating to Texas High Cost Universal Service Plan (THCUSP); §26.404, relating to Small and Rural Incumbent Local Exchange

Company (ILEC) Universal Service Plan; and §26.405, relating to Financial Need for Continued Support to implement these changes.

The commission also proposes amending §26.409, relating to Review of Texas Universal Service Fund Support Received by Competitive Eligible Telecommunications Providers by setting an expiration date for the provision of December 31, 2023, consistent with the requirements of PURA §56.023(s).

#### Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by October 27, 2023. **Comments must be organized by rule section in sequential order, and each comment must clearly designate which section is being commented on.** The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed repeals and amendments. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 54589. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 54589.

**Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.**

**Growth Impact Statement**

The agency provides the following governmental growth impact statement for the proposed rules, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rules are in effect, the following statements will apply:

(1) the proposed amendments and repeals will not create a government program and will not eliminate a government program;

(2) implementation of the proposed amendments and repeals will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed amendments and repeals will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed amendments and repeals will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed amendments and repeals will create a new regulation;

(6) the proposed amendments and repeals expand, limit, and repeal existing regulations;

(7) the proposed amendments and repeals will not change the number of individuals subject to the rule's applicability; and

(8) the proposed amendments and repeals will positively affect this state's economy.

**Fiscal Impact on Small and Micro-Businesses and Rural Communities**

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed amendments and repeals. Accordingly, no

1 economic impact statement or regulatory flexibility analysis is required under Texas Government  
2 Code §2006.002(c).

### 4 **Takings Impact Analysis**

5 The commission has determined that the proposed amendments and repeals will not be a taking of  
6 private property as defined in chapter 2007 of the Texas Government Code.

### 8 **Fiscal Impact on State and Local Government**

9 Mr. Stephen Mendoza, Senior Rate Analyst, Tariff and Rate Analysis has determined that for the  
10 first five-year period the proposed rules are in effect, there will be no fiscal implications for the  
11 state or for units of local government under Texas Government Code §2001.024(a)(4) as a result  
12 of enforcing or administering the sections.

### 14 **Public Benefits**

15 Mr. Mendoza has determined that for each year of the first five years the proposed amendments  
16 and repeals are in effect the public benefit anticipated as a result of enforcing the section will be  
17 enhanced clarity on rules applicable to modern technology and the repeal or amendment of rules  
18 that have become outdated. There will be no probable economic cost to persons required to comply  
19 with the rule under Texas Government Code §2001.024(a)(5).

**Local Employment Impact Statement**

For each year of the first five years the proposed amendments and repeals are in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

**Costs to Regulated Persons**

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

**Public Hearing**

The commission staff will conduct a public hearing on the **proposed amendments and repeals** in this project if requested in accordance with Texas Government Code §2001.029. A hearing request must indicate the rule sections for which the hearing is being requested. The request for a public hearing must be received by October 27, 2023. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

**Statutory Authority**

The proposed rule repeals and amendments are proposed for publication under PURA §14.002, which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §52.001(b)(1) which requires that commission rules, policies and principles be formulated and applied to protect the public interest; and PURA §52.002 which grants the commission exclusive original jurisdiction over the business and property of a telecommunications utility in the State of Texas.

**For rules relating to Customer Service and Protection under Chapter 26, Subchapter B**  
**§§ 26.21-26.37**

Amended §§ 26.30, 26.31, 26.32, and 26.34 are proposed under PURA §15.023, which authorizes the commission to impose an administrative penalty against a person regulated under PURA who violates PURA or a rule or order adopted under PURA; PURA §17.001, §17.003, and §17.004, and §64.001, and §64.004, which collectively authorize the commission to impose customer protection standards in the telecommunications market; PURA §17.051 which requires the commission to adopt rules relating to certification, registration, and reporting requirements for a certificated telecommunications utility, telecommunications utilities that are not dominant carriers, and pay telephone providers; PURA § 17.052(3) and § 64.052(3) which collectively authorize the commission to adopt and enforce rules for customer service and protection.

**§26.30, relating to Complaints**

Amended §26.30 is proposed under PURA §15.051, which concerns customer complaints for acts or omissions by a public utility in violation or claimed violation of a law for which the commission has jurisdiction.

**§26.31, relating to Disclosures to Applicants and Customers**

Amended §26.031 is proposed under PURA §64.004(a)(7) and (8), which respectively entitle buyers of telecommunications services to accuracy of billing and for bills to be presented in a clear, readable format and in easy-to-understand language.

**§26.32, relating to Protection Against Unauthorized Billing Charges**

Amended §26.32 is proposed under PURA §64.004(a)(1), which entitles buyers of telecommunications services to protection from fraudulent, unfair, misleading, deceptive, or anticompetitive practices, Subchapter D of Chapter 17 and 64 PURA §§ 17.151-17.158 and §§64.151-64.158 which establish customer protections against unauthorized charges. §26.34. relating to Telephone Prepaid Calling Services; PURA Chapter 15, Subchapter B §§ 15.021-15.0233 which generally authorizes the commission to enjoin, require compliance, and assess administrative penalties for violations of PURA by a public utility; PURA §55.253 which authorizes the commission to prescribe standards regarding the information a prepaid calling card company must disclose to customers in relation to the rates and terms of service for prepaid calling services offered in the State of Texas and provides the commission with all necessary jurisdiction to adopt rules under this section and to enforce those rules and this section; PURA.

**For rules relating to Infrastructure and Reliability under Chapter 26, Subchapter C §§ 26.51-26.57**

Amended §§ 26.52, 26.53, 26.54, and 26.55 are proposed under PURA §55.001, which requires a public utility to furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable; §55.002, relating to commission authority concerning standards in the regulation of telecommunications services; and §55.008, relating to improvements in service by a public utility.

**§26.52, relating to Emergency Operations and §26.53, relating to Inspections and Tests**



Amended §26.52 is proposed under PURA §55.002(1) and (2), which respectively authorize the commission to, on its own motion or on complaint and after reasonable notice and hearing, adopt just and reasonable standards, classifications, rules, or practices a public utility must follow in furnishing a service; adopt adequate and reasonable standards for measuring a condition, including quantity and quality, relating to the furnishing of a service;

**§26.54, relating to Service Objectives and Performance Benchmarks) and §26.55, Monitoring of Service**

Amended §26.54 is proposed under PURA §55.002(3) and (4) which respectively authorize the commission to, on its own motion or on complaint and after reasonable notice and hearing, adopt reasonable rules for examining, testing, and measuring a service; and adopt or approve reasonable rules, specifications, and standards to ensure the accuracy of equipment, including meters and instruments, used to measure a service.

**§26.73, relating to Annual Earnings Reports**

Amended §26.73 is proposed in accordance with the guidelines of the commission's evaluation of the reporting requirements of Chapter 26 published in Project 32460 and as required by SB 408 §13 (79R). Amended § 26.73 is also proposed under PURA §52.207 which authorizes the commission to collect a report from a holder of a COA or SPCOA and maintain the confidentiality of competitive information contained in such reports; PURA §56.024 which authorizes the commission to require certain telecommunications provider to provide a report or information necessary to assess contributions and disbursements to the universal service fund and maintain the confidentiality of such reports; and PURA § 65.004 which authorizes the commission to collect

1 and compile information from all telecommunication providers as necessary to evaluate the  
2 telecommunications market of this state and maintain the confidentiality of such information.

3  
4 **§26.79 relating to Equal Opportunity Reports**

5 Amended §26.73 is proposed under PURA § 52.256, which requires each telecommunications  
6 utility to submit an annual report to the commission and the legislature relating to its efforts to  
7 improve workforce diversity and contracting opportunities for small and historically underutilized  
8 businesses.

9  
10 **§26.80, relating to Annual Report on Historically Underutilized Businesses) and 26.85,**  
11 **relating to Report on Workforce Diversity and Other Business Practices**

12 Amended §26.80 is proposed under PURA §12.252, which authorizes the commission to, after  
13 notice and hearing, require each utility subject to regulation under PURA to make an effort to  
14 overcome the underuse of historically underutilized businesses; and PURA §52.256 which requires  
15 each telecommunications utility to submit an annual report to the commission and the legislature  
16 relating to its efforts to improve workforce diversity and contracting opportunities for small and  
17 historically underutilized businesses.

18  
19 **§26.89, relating to Nondominant Carriers' Obligations Regarding Information on Rates and**  
20 **Services**

21 Amended §26.89 is proposed under PURA §52.007, which authorizes a telecommunications  
22 provider that is not subject to rate of return regulation under Chapter 53 to take certain actions  
23 relating to the telecommunication provider's tariffs, price lists, and customer service agreements

1 and PURA §52.154 which prohibits the commission from imposing a burden on a nondominant  
2 telecommunications utility a greater regulatory burden than is imposed on a holder of a CCN  
3 serving the same area or a deregulated company under PURA §65.002 that meets certain criteria.

4  
5 **§26.111, relating to Certificate of Operating Authority (COA) and Service Provider**  
6 **Certificate of Operating Authority (SPCOA) Criteria.**

7 Amended §26.111 is proposed under PURA §52.154, which precludes the commission from  
8 adopting a rule or regulatory practice that would impose a greater burden on a nondominant  
9 telecommunications utility than is imposed on a holder of a certificate of convenience and  
10 necessity serving the same area or on certain deregulated incumbent local exchange carriers;  
11 PURA Chapter 54, Subchapter C §§ 54.101-54.105 and Subchapter D §§ 54.151-54.159, which  
12 respectively provide for standards relating to a certificate of operating authority service provider  
13 certificate of operating authority, including relevant limitations, eligibility and applications  
14 requirements, and the grant or denial of a certificate; and PURA §65.102, which specifies the  
15 requirements applicable to a deregulated ILEC that holds a certificate of operating authority.

16  
17 **§26.123, relating to Caller Identification Services**

18 Amended §26.123 is proposed under PURA §§54.259, 54.260, and 54.261 which collectively  
19 ensure access by certificate holders to a third party's property to install or maintain equipment as  
20 necessary to provide telecommunications service. Specifically, amended §26.129 is proposed  
21 under PURA §54.259, which prohibits property owners from discriminating against a  
22 telecommunications utility or otherwise interfering with such a utility when accessing the property  
23 owner's land when necessary for the provision of telecommunications service; PURA §54.260,

1 which authorizes a property owner to establish reasonable conditions for a telecommunications  
2 utility's access to the property owner's land; and §54.261 which does not require a property owner  
3 to enter into a contract with a telecommunications utility to provide shared tenant services on a  
4 property.

5  
6 **§26.127, relating to Abbreviated Dialing Codes**

7 Amended §26.127 is proposed under PURA §55.002(1) and (2), which respectively authorize the  
8 commission to, on its own motion or on complaint and after reasonable notice and hearing,  
9 adopt just and reasonable standards, classifications, rules, or practices a public utility must  
10 follow in furnishing a service; adopt adequate and reasonable standards for measuring a  
11 condition, including quantity and quality, relating to the furnishing of a service; *Use of NII*  
12 *Codes and Other Abbreviated Dialing Arrangements*, Sixth Report and Order, CC Docket No. 92-  
13 105, FCC 05-59 (Mar. 14, 2005).

14  
15 **§26.128, relating to Telephone Directories**

16 Amended §26.128 is proposed under PURA Chapter 55, Subchapter D §§55.201-204, relating to  
17 the terms and requirements of directory listings and assistance for directories published by  
18 telecommunications utilities and private publishers; PURA § 56.156 which authorizes the  
19 commission to promote the Specialized Telecommunications Assistance Program by means of  
20 participation in events, advertisements, pamphlets, brochures, forms, pins, or other promotional  
21 items or efforts that provide contact information for persons interested in applying for a voucher  
22 under the program; and Tex. Bus. & Comm. Code § 304.055 which requires a private for-profit  
23 publisher of a residential telephone directory that is distributed to the public at minimal or no cost

1 to include in the directory information established by the commission through which a person may  
2 request placement of a telephone number on the Texas no-call list or order a copy of the form to  
3 make that request.

4  
5 **§26.130, relating to Selection of Telecommunications Utilities**

6 Amended §26.130 is proposed under PURA §§17.102, PURA Chapter 55, Subchapter K §§  
7 55.301-55.308, and PURA Chapter 64, Subchapter C §§64.101-64.102, which require the  
8 commission to ensure that customers are protected from deceptive practices employed in obtaining  
9 authorizations of service and in the verification of change orders.

10  
11 **§26.171, relating to Small Incumbent Local Exchange Company Regulatory Flexibility**

12 Amended §26.129 is proposed under PURA Chapter 53, Subchapter G §§53.301-308 which  
13 collectively prescribe and authorize certain procedures for the expedited review of  
14 telecommunications rates and services offered by small local exchange companies and  
15 cooperatives.

16  
17 **§26.175, relating to Reclassification of Telecommunications Services for Electric Incumbent**  
18 **Local Exchange Companies (ILECs)**

19 Amended §26.175 is proposed under PURA §58.024, which authorizes the commission to  
20 reclassify telecommunications services and requires the commission to establish standards for such  
21 reclassification and PURA §58.051 which identifies which telecommunications services are basic  
22 network services, unless reclassified.

**§26.207, relating to Form and Filing of Tariffs and §26.208, relating to General Tariff Procedures**

Amended §26.207 and new §26.208 are proposed under PURA §14.052, which authorizes the commission to adopt and enforce rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings; PURA §52.058 which requires the commission to adopt rules and establish procedures relating to new or experimental services or promotional rates; PURA §52.051 which requires a public utility to file with the commission a tariff showing each rate subject to the commission's jurisdiction and in effect for a utility service, product, or commodity offered by the utility; PURA §52.058 also requires a public utility to file as part of its tariff each commission rule that relates to each rate of the utility, utility service, product, or commodity furnished by the utility; PURA Chapter 54, Subchapter C §§53.101-53.113 which establishes the general procedures for rate change proposed by a utility; PURA Chapter 58, Subchapter C §§58.051-58.063 which details the regulation and adjustment of rates for basic network services.

**§26.209, relating to New and Experimental Services and §26.210, relating to Promotional Rates for Local Exchange Company Services**

Amended §26.209 is proposed under PURA §52.058, which requires the commission to adopt rules and establish procedures for new or experimental services and promotional rates provided by ILECs.

**§26.211, relating to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges**

Amended §26.211 is proposed under PURA §52.054, which authorizes the commission to adopt rules or establish procedures applicable to ILECs to determine the level of competition in a specific telecommunications market or submarket and provide appropriate regulatory treatment to allow an incumbent local exchange company to respond to significant competitive challenges.

**§26.214, relating to Long Run Incremental Cost (LRIC) Methodology for Services provided by Certain Incumbent Local Exchange Companies (ILECs)**

Amended § 26.214 is proposed under PURA §51.004, which requires a discount or other form of pricing flexibility to not be unreasonably preferential, prejudicial, discriminatory, predatory, or anticompetitive and establishes the presumption that a price set at or above the long run incremental cost of a service is not a predatory price; PURA §52.0583(b) which authorizes an ILEC to introduce new services and requires an ILEC to price each new service at or above the service's long run incremental cost; PURA §52.0584 authorizes an ILEC to exercise pricing and packaging flexibility for customer promotional offerings and requires an ILEC to price each regulated service offered separately or as part of a package at either the service's tariffed rate or at a rate not lower than the service's long run incremental cost.

**§26.215, relating to Long Run Incremental Cost Methodology for Dominant Certificated Telecommunications Utility (DCTU) Services; §26.217, relating to Administration of Extended Area Service (EAS) Requests**

Amended § 26.215 is proposed under PURA §52.053 which prohibits a rate established under Chapter 52 from being unreasonably preferential, prejudicial, or discriminatory, subsidized either directly or indirectly by a regulated monopoly service; or predatory or anticompetitive PURA

§52.059 which authorizes the commission to adopt standards necessary to ensure that a rate established under Chapter 52 covers appropriate costs, as determined by the commission.

**§26.221, relating to Applications to Establish or Increase Expanded Local Calling Service Surcharges**

Amended §26.221 is proposed under PURA §55.024, which requires an incumbent local exchange company that provides mandatory two-way extended area service to impose a charge for that service; PURA §58.061 which exempts a charge permitted under PURA §55.024 from the requirements of PURA Chapter 58, Subchapter C §§58.051-58.063; and PURA §59.024 which exempts a charge permitted under PURA §55.024 from certain rate change requirements.

**§26.224, relating to Requirements Applicable to Basic Network Services for Chapter 58 Electing Companies**

Amended §26.215 is proposed under PURA Chapter 58, Subchapter C §§ 58.051-063 which collectively prescribe requirements relating to basic network services offered by a company electing for incentive regulation under Chapter 58. Specifically, amended §26.215 is proposed under PURA §58.051, which classifies certain services as basic network services; PURA §58.052 which enumerates the regulatory authority for basic network services; and PURA §58.054, which requires an electing company to commit to not increase a rate for basic network service on or before the fourth anniversary of its election date; PURA §58.055, which authorizes an electing company to increase or decrease a rate for a basic network service during the company's four-year election period; PURA §58.056, which authorizes the commission or an electing company to proportionally adjust rates for services to reflect certain changes in Federal Communications



Commission policy; PURA §58.057, which authorizes an electing company to adjust rates under certain conditions; PURA §58.058, which authorizes the commission, upon request by an electing company, to allow a rate group reclassification that results from access line growth; PURA §58.059, which authorizes an electing company to request and the commission to approve, a rate adjustment under PURA §§ 58.056, 58.057, or 58.058; and PURA §58.060 which authorizes an electing company to increase a rate for a basic network service after the cap period under certain conditions.

**§26.272, relating to Interconnection**

Amended §26.272 is proposed under PURA §52.001 which states that the public interest requires rules, policies, and principles to be formulated and applied to protect the public interest and to provide equal opportunity to each telecommunications utility in a competitive marketplace; PURA §60.124 which requires each telecommunications provider to maintain interoperable networks; and PURA §60.125 which requires telecommunications providers to negotiate network interconnectivity, charges and terms.

**§26.276, relating to Unbundling**

Amended §26.276 is proposed under PURA §60.021 which requires, at a minimum, an incumbent local exchange company to unbundle its network to the extent the Federal Communications Commission orders.

**For rules relating to the Texas Universal Service Fund under Chapter 26, Subchapter P**

**§§ 26.401-26.424**

Amended §§ 26.403, 26.404, 26.405, 26.407, 26.409, 26.414, 26.417, 26.418, and 26.419 are proposed under PURA §51.001(g), which establishes a policy to ensure that customers in all regions of this state, including low-income customers and customers in rural and high cost areas, have access to telecommunications and information services. PURA Chapter 56, Subchapter A §§ 56.001-56.002 which establishes general provisions applicable to Chapter 56 of PURA. PURA §56.021 which requires the commission to adopt and enforce rules requiring local exchange companies to establish a universal service fund; and PURA §56.023 which establishes the commission's powers and duties in relation to the administration of the universal service fund.

**§26.417, relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds; §26.418, relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds, and §26.419, relating to Telecommunication Resale Providers' Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF) for Lifeline Service.**

Amended §§ 26.417, 26.418, and 26.419 are proposed under PURA §56.023(1), which requires the commission, in a manner that assures reasonable rates for basic local telecommunications service, adopting eligibility criteria and review procedures, including a method for administrative review, the commission finds necessary to fund the universal service fund and make distributions from that fund; and PURA §56.023(2) which requires the commission to determine which telecommunications providers meet the eligibility criteria; PURA §55.015 which requires the commission to adopt rules relating to certain requirements of lifeline service

1 and establishes certain requirements relating to the provision of lifeline service by certificated  
2 providers of local exchange telephone service.

3  
4 **§26.433, relating to Roles and Responsibilities of 9-1-1 Service Providers.**

5 Amended §26.433 is proposed under PURA §54.251, which requires a certificate holder to meet  
6 minimum quality of service standards, including standards for 911 service, as determined by the  
7 commission; §58.051(a)(8) which establishes access for all residential and business end users to  
8 911 service provided by a local authority and access to dual party relay service as a basic network  
9 service; PURA §58.051(b) which requires electing companies to offer each basic networked  
10 service as a separately tariffed service in addition to any packages or other pricing flexibility  
11 offerings that include those basic network services; §60.021 which requires that at a minimum, an  
12 ILEC shall unbundle its network to the extent ordered by the Federal Communications  
13 Commission; §60.022 which states that the commission may unbundle local exchange company  
14 services in addition to the unbundling required by §60.021 after considering the public interest and  
15 competitive merits of further unbundling; §60.023 which states that the commission may assign  
16 an unbundled component to the appropriate category of services under Chapter 58 according to  
17 the purposes and intents of the categories; §60.122 which grants the commission exclusive  
18 jurisdiction to determine rates and terms for interconnection for a holder of a certificate of  
19 convenience and necessity, a certificate of operating authority, or a service provider certificate of  
20 operating authority; §60.124 which requires each telecommunications provider to maintain  
21 interoperable networks; §64.051 which requires the commission to adopt rules relating to  
22 certification, registration, and reporting requirements of a certificated telecommunications utility,  
23 all telecommunications utilities that are not dominant carriers, and pay telephone providers;

§64.052 which establishes the scope of the rules under §64.051; and §64.053 which states the commission may require a telecommunications service provider to submit reports to the commission concerning any matter over which it has authority under PURA Chapter 64.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002; and Texas Government Code §2001.039.

1   **§26.5. Definitions.**

2  
3   (1)-(190)(No change.)

4  
5   (191) **Public safety answering point (PSAP)** -- A continuously operated communications  
6       facility established or authorized by local government authorities that answers 9-1-1 calls  
7       originating within a given service area, as further defined in Texas Health and Safety Code  
8       Chapters 771 and 772. The term includes an emergency communications center.

9  
10   (192)-(289)(No change.)

1    **§26.30.       Complaints.**

2

3    (a)   **Complaints to a certificated telecommunications utility (CTU).** A customer or

4           applicant for a service (~~complainant~~) may submit a complaint to a CTU either in person,

5           by letter, telephone, or by any other means determined by the CTU. For purposes of this

6           section, a complainant is a customer or applicant for a service that has submitted a

7           complaint to a CTU or to the commission.

8           (1)   **Initial investigation.** The CTU ~~must~~shall investigate the complaint and advise the

9           complainant of the results of the investigation within 21 days of receipt of the

10          complaint. A CTU ~~must~~shall inform customers of the right to receive these results

11          in writing.

12          (2)   **Supervisory review by the CTU.** If a complainant is not satisfied with the initial

13          response to the complaint, the complainant may request a supervisory review by

14          the CTU.

15          (A)   A CTU supervisor ~~must~~shall conduct the supervisory review and ~~shall~~

16               inform the complainant of the results of the review within ten days of receipt

17               of the complainant's request for a review. A CTU ~~must~~shall inform

18               customers of the right to receive these results in writing.

19          (B)   A complainant who is dissatisfied with a CTU's supervisory review

20               must~~shall~~ be informed of:

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

22               (iii)   the following contact information for the commission:

(I) Mailing Address: ~~PUCT~~~~Public Utility Commission of~~  
~~Texas, Consumer~~~~Customer~~ Protection Division, P.O. Box  
13326, Austin, Texas 78711-3326;

(II)-(V)(No change.)

~~(VI) Telecommunications Device for the Deaf (TTY): (512) 936-~~  
~~7136; and~~

~~(VI)~~~~(VII)~~Relay Texas (toll-free): 1-800-735-2989.

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

(1) **Informal complaints.**

(A) (No change.)

(B) Upon receipt of a complaint from the commission, a CTU must~~shall~~  
investigate and advise the commission in writing of the results of its  
investigation within 152~~1~~ days of the date the complaint was forwarded by  
the commission.

(C) The commission will~~shall~~:

(i)-(iii) (No change.)

(D) While any informal complaint process is ongoing at the commission:

(i) basic local telecommunications service must~~may~~ not be suspended  
or disconnected for the nonpayment of disputed charges; and

(ii) (No change.)

(E) The CTU ~~must~~shall keep a record of any informal complaint forwarded to it by the commission for two years after the determination of that complaint.

(i) This record ~~must~~shall show the name and address of the complainant, and the date, nature, and adjustment or disposition of the complaint.

(ii) A CTU is not required to keep records of protests regarding commission-approved rates or charges that require no further action by the CTU.~~Protests regarding commission approved rates or charges that require no further action by the CTU need not be recorded.~~

(2) **Formal complaints.** If the complainant is not satisfied with the results of the informal complaint process, the complainant may file a formal complaint with the commission. This process may include the formal docketing of the complaint as provided ~~by in the commission's Procedural Rules, §22.242 of this title (relating to~~ Complaints).



1   **§26.31.       Disclosures to Applicants and Customers.**

2

3   (a)   **Application.** Subsection (b)(4)(C)(viii) of this section does not apply to a deregulated  
4       company holding a certificate of operating authority, or to an exempt carrier that meets the  
5       criteria of~~under~~ Public Utility Regulatory Act (PURA) §52.154.

6

7   (b)   **Certificated telecommunications utilities (CTU).** The disclosure requirements of this  
8       subsection~~These disclosure requirements shall only apply only~~ to residential customers and  
9       business customers with five or fewer customer access lines.

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

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

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

19   (2)   **Prior to acceptance of service.** ~~A~~Each CTU ~~must~~shall provide the following  
20       information to an applicant~~applicants~~ before the applicant accepts service~~any~~  
21       ~~acceptance of service~~:

22       (A)-(D)       (No change.)

(E) disclosure of ~~any and~~ all money that must be paid prior to installation of a new service or transfer of an existing service to a new location, and whether ~~or not~~ the money is refundable;

(F)-(I) (No change.)

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

(A) The information ~~must~~shall be:

(i) sent to the new ~~customer~~customers before payment for a full bill is due;

(ii)-(iii)(No change.)

(iv) provided in the same language~~languages~~ in which the CTU markets the service to a customer.

(B) The following information ~~must~~shall be included:

(i) each rate~~all rates~~ and charge~~charges~~ as it~~they~~ will appear on the telephone bill;

(ii) an itemization of each charge that~~any charges which~~ may be imposed on the customer, including ~~but not limited to,~~ charges for late payments and returned checks;

(iii) (No change.)

(iv) any applicable minimum contract service terms and ~~any~~ fees for cancellation or 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)-(vii)(No change.)

(viii) the company's cancellation or early termination policy;

(ix) an operational~~a~~ working toll-free number for customer service inquiries; and

(x) the provider's legal business ~~or "doing business as"~~ name used for providing telecommunications services in the state.

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

(A) The informational disclosures relating to customer protections required by~~information in~~ subparagraph (C) of this paragraph ~~must~~shall be:

(i) sent to the new customer~~customers~~ before payment for a full bill is due;

- (ii) clearly labeled to indicate the customer protection disclosures contain information regarding ~~it contains the~~ customer rights;
- (iii) provided in a readable format and written in plain, non-technical language; and
- (iv) provided in the same language ~~languages~~ in which the CTU markets the service to a customer.

(B) The CTU ~~must~~shall also provide:

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

(C) The following informational disclosures relating to customer protections must be provided by the CTU~~information shall be included~~:

- (i) the CTU's customer credit requirements and the circumstances under which a customer deposit or an additional deposit may be required, the manner in which~~how~~ a deposit and interest paid on deposits~~are~~ is calculated, the interest paid on deposits~~and~~ the time frame and requirements~~requirement~~ for return of the deposit to the customer, and any other terms and conditions related to deposits;

- 1 (ii) the time period for payment of~~allowed to pay~~ outstanding bills  
2 without incurring a penalty and the amount and conditions under  
3 which a penalty~~penalties~~ may be applied to delinquent bills;
- 4 (iii) the grounds for suspension and/or disconnection of service;
- 5 (iv) the requirements a CTU must meet to suspend or disconnect  
6 service~~the steps that must be taken before a CTU may suspend~~  
7 ~~and/or disconnect service~~;
- 8 (v) the requirements a CTU must meet~~the steps~~ for resolving billing  
9 disputes ~~with the CTU~~ and how disputes affect suspension ~~and/or~~  
10 disconnection of service;
- 11 (vi) information on alternative payment plans offered by the CTU,  
12 including ~~but not limited to~~, payment arrangements and deferred  
13 payment plans. A CTU must provide to each customer a statement  
14 that the~~as well as a statement that~~ a customer has the right to request  
15 these alternative payment plans;
- 16 (vii) the requirements~~the steps necessary~~ to have the customer's service  
17 restored ~~and/or~~ reconnected after involuntary suspension or  
18 disconnection;
- 19 (viii) (No change.)
- 20 (ix) information regarding protections against unauthorized billing  
21 charges ("cramming") and selection of telecommunications utilities  
22 ("slamming") as required by §26.32 of this title (relating to  
23 Protection Against Unauthorized Billing Charges ("Cramming"))

and §26.130 of this title (relating to Selection of Telecommunications Utilities), respectively;

(x) the customer's right to file a complaint with the CTU, the procedures for a supervisory review, and the customer's right to file a complaint with the commission regarding any matter concerning the CTU's service. The commission's contact information: PUCT~~Public Utility Commission of Texas~~, Consumer~~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.texas.gov](mailto:customer@puc.texas.gov), Internet address: [www.puc.texas.gov](http://www.puc.texas.gov), ~~TTY (512) 936-7136~~, and Relay Texas (toll-free) 1-800-735-2989, must~~shall~~ accompany this information;

(xi) the hours, addresses, and telephone numbers of each CTU ~~office~~~~offices~~ where bills may be paid and customer service information may be obtained, or a toll-free number at which the customer may obtain such~~this~~ information;

(xii) a toll-free telephone number or ~~the~~ equivalent, (such as the use of wide area telephone service~~WATS~~ or acceptance of collect calls,) that a customer~~customers~~ may call to report service problems or make billing inquiries;

(xiii) a statement that each CTU services~~services~~ ~~is~~~~are~~ provided without discrimination as to a customer's race, color, sex, nationality,

1 religion, marital status, income level, source of income, or from  
2 unreasonable discrimination on the basis of geographic location;

3 (xiv) (No change.)

4 (xv) notice of any special services such as readers or notices in Braille, if  
5 available, ~~and the phone number for Relay Texas: 1-800-735-2989,~~  
6 and any teletypewriter or text telephone service offered by the CTU  
7 ~~telephone number of the text telephone for the deaf or hard of~~  
8 ~~hearing at the commission;~~

9 (xvi) how ~~a customer~~customers with a physical disabilitydisabilities, and  
10 those who care for them, can identify themselves to the CTU so that  
11 special action can be taken to appropriately inform these persons of  
12 their rights; and

13 (xvii) if a CTU is offering Lifeline Service in accordance with §26.412  
14 (relating to Lifeline Service Program), how information about  
15 customers who qualify for Lifeline Service may be shared between  
16 each relevant state agencyagencies and the customer'stheir local  
17 phone service provider.

18 (5) **Notice of changes.** A CTU ~~must~~shall provide each customercustomers written  
19 notice between 30 and 60 calendar days in advance of a material change in the terms  
20 and conditions of service or customer rights and ~~must~~shall give eachthe customer  
21 the option to decline any material change in the terms and conditions of service and  
22 cancel service without penalty due to the material change in the terms and  
23 conditions of service. This paragraph does not apply to changes that are beneficial

to the customer such as a price decrease or changes required by law ~~mandated~~  
regulatory changes.

(6) **Right of cancellation.**

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

(B) If a residential applicant or customer enrolls in a contract with a minimum  
duration ~~will incur an obligation~~ exceeding 31 days, a CTU ~~must~~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 ~~must~~shall offer the applicant or customer a right to cancel  
the contract without penalty or fee ~~of any kind~~ for a period of six  
working~~business~~ days after the terms and conditions of service are mailed  
or sent electronically to the applicant or customer.

(c) **Dominant certificated telecommunications utility (DCTU).** In addition to the  
requirements of subsection (b) 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 an applicant signs~~signing~~ a contract for  
service, ~~applicants~~or a DCTU accepts~~accepting~~ any money for new residential  
service or transfer~~transferring~~ a customer's existing residential service to a new  
location, the ~~each~~ DCTU ~~must~~shall provide to each applicant~~applicants~~ the  
following~~information~~:



- (A) ~~information relating to about~~ the DCTU's ~~residential service lowest-priced~~ alternatives, beginning with the ~~lowest-priced~~~~least-cost~~ option, and the range of service offerings available ~~within~~~~at~~ the applicant's ~~service area~~~~location~~ with full consideration to ~~the cost associated with~~ applicable equipment options and installation charges; and
- (B) ~~a statement written in plain English or Spanish that clearly informs the applicant~~~~applicants~~ about the availability of Lifeline ~~Services~~~~service~~.

(2) Customer rights.

- (A) If a DCTU provides ~~its customers with~~ the same information as required by ~~subparagraph~~~~subsection~~ (b)(4)(C) of this section in the telephone directories provided to each customer ~~in accordance with~~~~pursuant to~~ §26.128 of this title (relating to Telephone Directories), the DCTU ~~must~~~~shall~~ provide a printed statement on ~~each customer's~~ the bill or a billing insert identifying the location of the information ~~within the telephone directory~~. The statement or billing insert ~~must~~~~shall~~ be provided to customers ~~at least~~ every six months.
- (B) The information required by subsection (b)(4)(C) of this section and this subsection ~~must~~~~shall~~ be provided in plain 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 ~~must~~~~shall~~ notify ~~each customer~~~~all~~ customers through a statement ~~provided in plain~~~~both~~ English and Spanish,

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

3 (C) The information required in subsection (b)(4)(C) of this section ~~must~~shall  
4 also include:

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

6  
7 ~~(d) Nondominant certificated telecommunications utility (NCTU) implementation.~~

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

9  
10

1    **§26.32.       Protection Against Unauthorized Billing Charges (“Cramming”).**

2

3    (a)   **Purpose.** The provisions of this section are intended to ensure that ~~each customer~~  
4       customers in this state are protected from unauthorized charges on a customer’s  
5       telecommunications utility bill. This section establishes the requirements necessary to  
6       obtain and verify customer consent for charges for any product or service before the  
7       associated charges appear on the customer’s telephone bill.

8

9    (b)   **Application.** This section applies to all “billing agents,” “billing telecommunications  
10       utilities,” and “service providers” as those terms are defined in §26.5 of this title (relating  
11       to Definitions) or the Public Utility Regulatory Act (PURA). This section does not apply  
12       to:

- 13       (1)   an unauthorized change in a customer's local or long distance service provider,  
14           which is addressed ~~under~~ §26.130 of this title (relating to Selection of  
15           Telecommunications Utilities);

16       (2)-(3)(No change.)

17

18    (c)   **Definition.** The term “customer,” when used in this section, ~~means~~~~shall mean~~ the account  
19       holder, including the account holder’s spouse, in whose name the telephone service is  
20       billed, including individuals, governmental units at all levels of government, corporate  
21       entities, and any other entity or person with the legal capacity to request to be billed for  
22       telephone service.

23

(d) **Requirements for billing authorized charges.** ~~A~~<sup>No</sup> service provider or billing agent ~~must comply with this subsection before submitting~~<sup>shall submit</sup> charges for any product or service for billing on a customer's telephone bill ~~before complying with all of the~~ following requirements:

(1) **Inform the customer.** The service provider offering the product or service ~~must~~<sup>shall</sup> thoroughly inform ~~each~~<sup>the</sup> customer of the product or service being offered, including ~~each charge associated with~~<sup>all associated charges</sup> for the product or service, and ~~must~~<sup>shall</sup> inform ~~each~~<sup>the</sup> customer that the associated charges for the product or service will appear on the customer's telephone bill.

(2) **Obtain customer consent.** The service provider ~~must~~<sup>shall</sup> obtain clear and explicit consent ~~from the customer, verified in accordance with~~<sup>pursuant to</sup> subsection (f) of this section, ~~from the customer to obtain the product or service being offered and to have~~<sup>each charge</sup> ~~the associated with the service charges~~<sup>appear</sup> on the customer's telephone bill. A record of the customer's verified consent ~~must~~<sup>shall</sup> be maintained by the service provider offering the product or service for at least 24 months immediately after the verified consent was obtained.

(3) **Provide contact information.** The service provider offering the product or service, and any billing agent for the service, ~~must~~<sup>shall</sup> provide ~~each~~<sup>the</sup> customer with a toll-free telephone number that the customer may call, and an address to which the customer may write, to resolve any billing dispute and to obtain answers to any questions.

(4) **Provide business information.** The service provider, ~~(other than the billing telecommunications utility,~~<sup>)</sup> and its billing agent ~~must~~<sup>shall</sup> provide the billing

telecommunications utility with the service provider's name, business address, and business telephone number.

(5) **Obtain billing telecommunications utility authorization.** The service provider and its billing agent ~~must~~shall execute a written agreement with the billing telecommunications utility to bill for a product~~products~~ or services~~services~~ on the billing telecommunications utility's telephone bill. Record of this agreement ~~must~~shall be maintained by:

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

(C) the billing telecommunications utility for as long as the billing for the product or service continues, and for the 24 months immediately following the permanent discontinuation of the billing for that product or service.

(e) **Post-termination billing.** A service provider ~~must~~shall not bill a customer for a product or service after the termination or cancellation date for that product or service unless the bill is for a product or service provided prior to the termination or cancellation date; or the service provider subsequently obtains customer consent and verification of that consent in accordance with~~pursuant to~~ this section.

(f) **Verification requirements.**

(1) Verification of a customer's consent for an order of a product or service must include:

(A) the date of the customer's~~customer~~ consent;

(B) the date of the customer's~~customer~~ verification of consent;

(C)-(D)(No change.)

(2) Verification of a customer's consent for an order of a product or service may not include discussion of any incentives that were or may have been offered by the service provider and ~~must~~shall be limited to, without explanation, ~~to~~ the identification of:

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

(3) During any communication with a customer to verify that the customer's consent for a product or service, the independent third-party verifier or the sales representative, of the service provider must~~shall~~, after sufficient inquiry, ~~to ensure~~ that the customer is authorized to order the product or service; and obtain~~obtain~~ the explicit customer acknowledgment from the customer that charges for the product or service ordered by the customer will be assessed on the customer's telephone bill.

(4) Except in customer-initiated transactions with a certificated telecommunications utility for which the service provider has the appropriate documentation obtained in accordance with ~~pursuant to subsection~~ section (d) of this section, verification of customer consent to an order for a product or service ~~must~~shall be verified by one or more of the following methods:

(A) Written or electronically signed documentation.

(i) Written or electronically signed verification of consent ~~must~~shall be provided in a separate document containing only the information required by paragraphs (1) and (2) of this subsection for the sole purpose of verifying the consent for a product or service on the customer's telephone bill. A customer ~~must~~shall be provided the

option of using another form of verification as an alternative to in  
lieu of an electronically signed verification.

(ii) The document must~~shall~~ be signed and dated by the customer. Any electronically signed verification must~~shall~~ include the customer disclosures required by the *Electronic Signatures in Global and National Commerce Act* 47 United States Code §7001(c)§101(e).

(iii) The document must~~shall~~ not be combined with inducements of any kind on the same document, screen, or webpage.

(iv) If any portion of the document, screen or webpage is translated into another language, then all portions of the document must~~shall~~ be translated into that language. Every document must~~shall~~ be translated into the same language as any promotional materials, or oral or written descriptions, or instructions provided with the document, screen, or webpage.

(B) Toll-free electronic verification placed from the telephone number that is the subject of the product or service, except in exchanges where automatic number identification (ANI) from the local switching system is not technically possible. The service provider must:

(i) (No change.)

(ii) establish one or more toll-free telephone numbers exclusively for the purpose of verifying the customer's~~customer~~ consent of charges for the product~~product(s)~~ or service~~service(s)~~ so that the customer calling the toll-free number~~number(s)~~ will reach a voice response

unit or similar mechanism regarding the customer consent for the  
~~product~~product(s) or ~~services~~service(s) and automatically records the  
ANI from the local switching system.

(iii) Automated systems ~~must~~shall provide customers the option of  
speaking with a live person at any time during the call.

(C) Voice recording by service provider.

(i) The recorded conversation with a customer ~~must~~shall be ~~in a~~clear,  
~~and easy-to-understand, slow, and deliberate manner~~and ~~must~~shall  
contain the information required by paragraphs (1) and (2) of this  
subsection.

(ii) The recording ~~must~~shall be ~~clear and~~clearly audible.

(iii) The recording ~~must~~shall include the entire and actual conversation  
with the customer on audio tape, a wave sound file, or other  
recording device that is compatible with the commission's  
equipment.

(iv) The recording ~~must~~shall be dated and include a clear and  
conspicuous confirmation that the customer consented to recording  
the conversation and authorized the charges for a product or service  
on the customer's telephone bill.

(D) Independent Third Party Verification. Independent third party verification  
of consent ~~must~~shall meet the following requirements:



- (i) Verification ~~must~~shall be given to an independent and appropriately qualified third party with no participation by a service provider, except as provided in clause (vii) of this subparagraph.
- (ii) Verification ~~must~~shall be recorded.
- (iii) The recorded conversation with a customer ~~must~~shall contain explicit customer consent to record the conversation, be in a clear, ~~and~~ easy-to-understand, ~~slow, and deliberate~~ manner and ~~must~~shall comply with each of the requirements of paragraphs (1) and (2) of this subsection for the sole purpose of verifying the customer's consent of the charges for a product or service on the customer's telephone bill.
- (iv) The recording ~~must~~shall be ~~clear and~~clearly audible.
- (v) The independent third party verification ~~must~~shall be conducted in the same language used in the sales transaction.
- (vi) Automated systems ~~must~~shall provide customers the option of speaking with a live person at any time during the call.
- (vii) A service provider or its sales representative initiating a three-way call or a call through an automated verification system ~~must~~shall disconnect from the call once a three-way connection with the third party verifier has been established unless the service provider meets the following requirements:
- (l) the service provider files a sworn written certification with the commission that the sales representative is unable to

1 disconnect from the sales call after initiating third party  
2 verification. Such certification should provide sufficient  
3 information describing the ~~reasons~~ reason(s) for the inability  
4 of the sales agent to disconnect from the line after the third  
5 party verification is initiated. The service provider ~~is~~ shall be  
6 exempt from this requirement for a period of two years from  
7 the date the certification was filed with the commission;

8 (II) (No change.)

9 (III) The independent third party verification ~~must~~ shall  
10 immediately terminate if the sales agent of an exempt service  
11 provider, ~~in accordance with subclause pursuant to sub~~  
12 ~~clause~~ (I) of this clause, responds to a customer inquiry,  
13 speaks after third party verification has begun, or in any  
14 manner prompts one or more of the customer's responses.

15 (viii) The independent third party ~~must~~ shall:

16 (I)-(II) (No change.)

17 (III) operate in a location that is physically separate from the  
18 service provider or the service provider's marketing agent.

19 (ix) The recording ~~must~~ shall include the entire and actual conversation  
20 with the customer on audio tape, a wave sound file, or other  
21 recording device that is compatible with the commission's  
22 equipment.

(x) The recording ~~must~~shall be dated and include clear and conspicuous confirmation that the customer authorized the charges for a product or service on the customer's telephone bill.

(5) (No change.)

(6) A record of the verification required by subsection (f) of this section ~~must~~shall be maintained by the service provider offering the product or service for at least 24 months immediately after the verification was obtained from the customer.

(g) **Expiration of consent and verification.**

(1) If a customer consents to obtain a product or service but that product or service is not ~~provided~~provisioned within 60 calendar days from the date of customer consent:

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

(2) ~~Subparagraphs~~ Paragraphs (1)(A) and (B) of this subsection do not apply to a verification of consent relating to multi-line ~~and~~/or multi-location business customers that have entered into negotiated agreements with a service provider for a product or service provisioned under, and during the term of ~~specified in~~ the agreement. The verified consent ~~must~~shall be valid for the period specified in the agreement.

(h) **Unauthorized charges.**

(1) **Responsibilities of the billing telecommunications utility for unauthorized charges.** If a ~~customer~~customer's telephone bill is charged for any product or

1 service without proper customer verified consent in compliance with this section,  
2 the telecommunications utility that billed the customer, ~~on its knowledge or~~  
3 ~~notification of any unauthorized charge, must~~ shall promptly, but not later than 45  
4 calendar days upon becoming aware after the date of the knowledge or notification  
5 ~~of~~ an unauthorized charge meet the following requirements:

6 (A) A billing telecommunications utility ~~must~~ shall:

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

8 (iii) refund or credit to the customer all money that has been paid by the  
9 customer for any unauthorized charge, and if any unauthorized  
10 charge that has been paid is not refunded or credited within three  
11 billing cycles, ~~must~~ shall pay interest at an annual rate established by  
12 the commission in accordance with ~~pursuant to~~ §26.27 of this title  
13 (relating to Bill Payment and Adjustments) on the amount of any  
14 unauthorized charge until it is refunded or credited;

15 (iv) upon ~~on~~ the customer's request, provide the customer with all billing  
16 records under its control related to any unauthorized charge within  
17 15 working business ~~business~~ days after the date of the removal from the  
18 customer's telephone bill;

19 (v) (No change.)

20 (vi) maintain on an ongoing basis, a rolling for at least 24 months ~~for at least 24 months~~  
21 ~~a~~ record of every customer who has experienced any unauthorized  
22 charge for a product or service on the customer's telephone bill and  
23 has notified the billing telecommunications utility of the

1 unauthorized charge. The record ~~must~~shall contain for each alleged  
2 unauthorized charge:

3 (I) (No change).

4 (II) ~~each~~the affected telephone ~~number~~number(s) and  
5 ~~address~~addresses;

6 (III)-(V)(No change.)

7 (B) A billing telecommunications utility ~~must~~shall not:

8 (i) (No change.)

9 (ii) file an unfavorable credit report against a customer who has not paid  
10 charges that the customer has alleged were unauthorized unless the  
11 dispute regarding the unauthorized charges is ultimately resolved  
12 against the customer. The customer ~~must~~shall remain obligated to  
13 pay any charges that are not in dispute, and this paragraph does not  
14 apply to those undisputed charges.

15 (2) **Responsibilities of the service provider for unauthorized charges.** The service  
16 provider responsible for placing any unauthorized charge on a customer's telephone  
17 bill ~~must~~shall:

18 (A) (No change.)

19 (B) for at least 24 months following the completion of ~~all of~~ the steps required  
20 by ~~subparagraph~~paragraph (1)(A) of this subsection, maintain a record for  
21 every disputed charge for a product or service on the customer's telephone  
22 bill. Each record ~~must~~shall contain:

23 (i) ~~each~~the affected telephone ~~number~~number(s) and ~~address~~addresses;

(iii)-(iv)(No change.)

(C) (No change.)

(i) **Notice of customer rights.**

(1) Each notice, as provided under~~as set out in~~ paragraph (2) of this subsection, must~~shall~~ also contain the billing telecommunications utility's name, address, and a working, toll-free telephone number for customer contacts.

(2) Every billing telecommunications utility must~~shall~~ provide the following notice, verbatim, to each of the utility's customers:

\*\*\*\*\*

**Charges on Your Telephone Bill**

**Your Rights as a Customer**

Placing charges on your phone bill for products or services without your consent is known as "cramming" and is prohibited by law. Your telephone company may be providing billing services for other companies, so other companies' charges may appear on your telephone bill.

If you believe you were "crammed," you should contact the telephone company that bills you for your telephone service, (insert name of company), at (insert company's toll-free telephone number) and request that it take corrective action. The Public Utility

Commission of Texas requires the billing telephone company to do the following within 45 calendar days of when it learns of the unauthorized charge:

- Notify the service provider to cease charging you for the unauthorized product or service;
- remove any unauthorized charge from your bill;
- refund or credit all money to you that you have paid for an unauthorized charge; and
- on your request, provide you with all billing records related to any unauthorized charge within 15 ~~working~~business days after the charge is removed from your telephone bill.

If the company fails to resolve your request, or if you would like to file a complaint, please write or call the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, (512) 936-7120 or toll-free in Texas at (888) 782-8477. Hearing and speech-impaired individuals ~~with text telephones (TTY)~~ may contact the commission through Relay Texas at 1-800-735-2989at ~~(512) 936-7136~~.

Your phone service cannot be disconnected for disputing or refusing to pay unauthorized charges.

You may have additional rights under state and federal law. Please contact the Federal Communications Commission, the Attorney General of Texas, or the Public Utility Commission of Texas if you would like further information about possible additional rights.

\*\*\*\*\*

(3) **Distribution and timing of notice.**

(A) Each billing telecommunications utility ~~must~~shall mail the notice as ~~provided under~~set out in paragraph (2) of this subsection to each of its residential and business customers within 60 calendar days after the effective date of this section, or by inclusion in the next publication of the utility's telephone directory following 60 calendar days after the effective date of this section. ~~Each~~In addition, each billing telecommunications utility ~~must~~shall send the notice to new customers at the time service is initiated ~~and upon customer~~on any customer's request.

(B) Every telecommunications utility that prints its own telephone ~~directory~~directories ~~must~~shall print the notice in the white pages of the ~~directory~~such directories, in nine point print or larger, beginning with the first publication of the ~~directory~~directories after 60 calendar days following the effective date of this section. ~~Subsequently thereafter~~, the notice must appear in the white pages of each telephone directory published by or for the telecommunications utility.

(4) Any bill sent to a customer from a telecommunications utility must include a statement, prominently located ~~on~~in the bill, that if the customer believes the bill includes unauthorized charges, the customer may contact: Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, (512) 936-7120 or toll-free in Texas at (888) 782-8477. Hearing and speech-impaired individuals ~~with text telephones (TTY)~~ may contact the commission through Relay Texas at 1-800-735-2989 ~~at (512) 936-7136.~~



(5) Each billing telecommunications utility ~~must, shall~~ as necessary to adequately inform the customer, make available to its customers the notice as set out in paragraph (2) of this subsection in both plain English and Spanish. ~~The as necessary to adequately inform the customer;~~ however, the commission may exempt a billing telecommunications utility from the requirement that the information be provided in Spanish upon an application ~~and a~~ showing that:

(i) 10% or fewer of its customers are exclusively Spanish-speaking;

and

(ii) a confirmation that the billing telecommunications utility will notify all customers through an addendum to the notice that states, a statement in plain both English and Spanish, ~~as an addendum to the notice,~~ that the information is available in Spanish from the telecommunications utility, both by mail and at the utility's offices.

(6) The customer notice requirements in paragraphs (1) and (2) of this subsection may be combined with the notice requirements of §26.130(g)(3) of this title if ~~all of~~ the information required by each is in the combined notice.

(7) The customer notice requirements in paragraph (4) of this subsection may be combined with the notice requirements of §26.130(i)(4) of this title if ~~all of~~ the information required by each is in the combined notice.

(j) **Complaints to the commission.** A customer may file a complaint with the commission's Consumer ~~Customer~~ Protection Division (CPD) against a service provider, billing agent or

1 billing telecommunications utility for any ~~reason~~~~reasons~~ related to the provisions of this  
2 section.

3 (1) **Customer complaint information.** CPD may request, at a minimum, the  
4 following information:

5 (A)-(C)(No change.)

6 (D) a copy of the most recent phone bill and any prior phone bill that ~~shows~~~~shows~~  
7 the alleged unauthorized product or service.

8 (2) **Service provider's, billing agent's or billing telecommunications utility's**  
9 **response to complaint.** After review of a customer's complaint, CPD ~~must~~~~shall~~  
10 forward the complaint to the service provider, billing agent or billing  
11 telecommunications utility named in that complaint. The service provider, billing  
12 agent or telecommunications utility ~~must~~~~shall~~ respond to CPD within 1521 calendar  
13 days after CPD forwards the complaint. The response ~~must~~~~shall~~ include, to the  
14 extent it is within the custody or control of the service provider, billing agent or  
15 billing telecommunications utility, the following:

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

17 (k) **Compliance and enforcement.**

18 (1) **Records of customer verifications.** A service provider, billing agent or billing  
19 telecommunications utility ~~must~~~~shall~~ provide a copy of records maintained under  
20 the requirements of subsections (d) and (f) of this section to the commission staff  
21 within 21 calendar days of a request for such records.

22 (2) **Records of disputed charges.** A billing telecommunications utility or a service  
23 provider ~~must~~~~shall~~ provide a copy of records maintained under the requirements of

subsection (h) of this section to the commission staff within 21 calendar days of a request for such records.

(3) **Failure to provide thorough response.** The proof of verified consent as required ~~under~~pursuant to subsection (j)(2)(A) of this section must establish a ~~verified~~valid authorized charge in the manner prescribed by ~~as defined by~~ subsection (f) of this section. Failure to timely submit a response that addresses the complainant's assertions within the time specified in subsections (j)(2), (k)(1), and (k)(2) of this section establishes a violation of this section.

(4) **Administrative penalties.** If the commission finds that a billing telecommunications utility has violated any provision of this section, the commission ~~will must~~shall order the utility to take corrective action, as necessary, and the utility may be subject to administrative penalties and other enforcement actions in accordance with~~pursuant to~~ PURA, Chapter 15 and §22.246 of this title (relating to Administrative Penalties).

(5) **Evidence.** Evidence provided by the customer that meets the standards established ~~by set out in~~ Texas Government Code §2001.081, including, ~~but not limited to,~~ one or more affidavits from a customer challenging the charge, is admissible in a proceeding to enforce the provisions of this section.

(6) **Additional Corrective Action.** If the commission finds that any other service provider or billing agent subject to PURA, Chapter 17, Subchapter D, or Chapter 64, Subchapter D, has violated any provision of this section or has knowingly provided false information to the commission on matters subject to PURA, Chapter 17, Subchapter D, or Chapter 64, Subchapter D, the commission ~~will~~shall order the

1 service provider or billing agent to take corrective action, as appropriate, and the  
2 commission may enforce the provisions of PURA, Chapter 15 and §22.246 of this  
3 title, against the service provider or billing agent as if the service provider or billing  
4 agent were regulated by the commission.

5 (7) **Certificate suspension, restriction or revocation.** If the commission finds that a  
6 billing telecommunications utility or a service provider has repeatedly violated this  
7 section; and, if consistent with the public interest, the commission may suspend,  
8 restrict, or revoke the registration or certificate of the telecommunications service  
9 provider, ~~thereby~~ denying the service provider the right to provide service in this  
10 state. The commission may not revoke a certificate of convenience and necessity,  
11 certificate of operating authority, or service provider certificate of operating  
12 authority of a telecommunications utility except as provided by PURA §54.008.

13 (8) **Termination of billing and collection services.** If the commission finds that a  
14 service provider or billing agent has repeatedly violated any provision of PURA,  
15 Chapter 17, Subchapter D, or Chapter 64, Subchapter D, the commission may order  
16 the billing telecommunications utility to terminate billing and collection services  
17 for that service provider or billing agent.

18 (9) **Coordination with Office of Attorney General.** The commission will~~shall~~  
19 coordinate its enforcement efforts regarding the prosecution of fraudulent, unfair,  
20 misleading, deceptive, and anticompetitive business practices with the Office of the  
21 Attorney General ~~in order to~~ to ensure consistent treatment of specific alleged  
22 violations.  
23

1   **§26.34.       Telephone Prepaid Calling Services.**

2

3   (a)   **Purpose.** The provisions of this section are intended to prescribe standards for the

4       information a prepaid calling services provider ~~must~~shall disclose to customers

5       regarding~~about~~ the rates and terms of service for prepaid calling services offered in this

6       state.

7

8   (b)   **Application.** This section applies to any “telecommunications utility” as ~~that term is~~

9       defined ~~by~~in §26.5 of this title, ~~(relating to Definitions)~~. This section does not apply to a

10       deregulated company holding a certificate of operating authority, or to an exempt carrier

11       utility that meets the criteria of ~~under~~ Public Utility Regulatory Act (PURA) §52.154. This

12       section also does not apply to a credit calling card in which a customer pays for a service

13       after use and receives a monthly bill for such use.

14

15   (c)   **Liability.** ~~A~~The prepaid calling services company ~~is~~shall be responsible for ensuring,

16       either through its contracts with its network provider, distributors and marketing agents or

17       other means, that:

18       (1)   end-user purchased prepaid calling service remains~~services remain~~ usable in

19           accordance with the requirements of this section; and

20       (2)   (No change.)

21

22   (d)   **Definitions.** The following terms used in this section ~~shall~~ have the following meanings,

23       unless the context indicates otherwise:

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

(9) Surcharge -- any fee or cost charged against a prepaid calling services account in addition to a per-minute rate or billing increment, including ~~but not limited to~~ connection, payphone, and maintenance fees.

(e) **Billing requirements for prepaid calling services.**

(1) Billing increments ~~must~~shall be defined and disclosed in the prepaid calling services company's published tariffs or price list on file with the commission, ~~and~~ on any display at the point of sale, ~~as well as~~ on any prepaid calling card, or on any prepaid calling card packaging.

(2) A prepaid calling services account may be decreased only for a completed call. Station busy signals and unanswered calls ~~are~~shall not be ~~considered~~ completed calls and ~~must~~shall not be charged against the account.

(3) A surcharge ~~must~~may not be levied more than once on a given call.

(4) Prepaid calling services companies ~~must~~may not reduce the value of a prepaid calling services account by more than the company's published domestic tariffs or price list on file with the commission and any surcharges filed at the commission. Domestic rates and surcharges ~~must~~shall be disclosed at the time of purchase. Current international rates ~~must~~shall be disclosed at the time of purchase with an explanation, if applicable, that these prices may be subject to change.

(5) The prepaid calling services account may be recharged by the customer at a different domestic rate from the original domestic rate or the last domestic recharge rate ~~provided that as long as~~ the new domestic rate and any domestic or international

1 surcharges conform with the company's published tariff or price list on file with  
2 the commission at the time of recharge. The customer must be informed of the  
3 rates at the time of recharge. A prepaid calling services company ~~must~~<sup>shall</sup> keep  
4 internal records of changes to its international rates and ~~must~~<sup>shall</sup> provide  
5 customers with the appropriate international rate information through a toll-free  
6 telephone number. International prepaid calling services rates ~~must~~<sup>shall</sup> ~~continue~~  
7 ~~to~~ be updated annually in accordance with §26.89 of this title, (relating to  
8 Information Regarding Rates and Services of Nondominant Carriers.)

- 9 (6) Upon verbal or written request, prepaid calling services companies must be capable  
10 of providing a customer~~customers~~ the following call detail data information at no  
11 charge:

12 (A)-(E)(No change.)

13 (F) The PIN ~~and~~/or account number associated with the call.

- 14 (7) Prepaid calling services companies ~~must~~<sup>shall</sup> maintain call detail data records for  
15 at least two years.

16  
17 (f) **Written disclosure requirements for all prepaid calling services.**

- 18 (1) **Information required on prepaid calling cards.** Cards must be issued with all  
19 information required by subparagraphs (A) and (B) of this paragraph in at least the  
20 same language in which the card is marketed. Bilingual cards are permitted  
21 provided that as long as all the information required by~~in~~ subparagraphs (A) and (B)  
22 of this paragraph is printed in both languages.

(A) At a minimum, a card must contain the following information printed in a legible font no smaller than eight-point:

(i) (No change.)

(ii) The maximum rate per minute ~~must~~shall be shown for local, intrastate, and interstate calls. International call prices ~~must~~shall be provided to the customer through a toll-free number printed on the card. If the cost for a one minute call is higher than the maximum rate per minute, it must be printed on the prepaid calling card; and

(iii) The words “VOID” or “SAMPLE” or sequential numbers, such as “999999999” on both sides of the card if the card was produced as a “non-active” card so that it is obvious to the customer that the card is not useable. If the card is not so labeled, the card is considered active and the issuing company ~~must~~shall honor it.

(B) At a minimum, a card must contain the following information printed in legible font no smaller than five-point:

(i) The value of the card and any applicable surcharges ~~must~~shall be expressed in the same format ~~such as (i.e. a card whose value is expressed in minutes must~~shall express surcharges in minutes). If the value of a card is expressed in minutes, the minutes must be identified as domestic or international and the identification must be printed on the same line or next line as the value of the card in minutes;



(ii) The prepaid calling services company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language ~~must~~shall clearly indicate that the company is providing the prepaid calling services;

(iii)-(iv)(No change.)

(2) **Information required at a point of sale.** All the following information ~~must~~shall be legibly printed on or in any packaging in a minimum eight point font and displayed visibly in a prominent area at the point of sale so that the customer may make an informed decision before purchase. Bilingual information may be made available ~~provided that as long as all~~ the information in subparagraphs (A)-(I) of this paragraph below is printed in both languages.

(A) (No change.)

(B) The company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language ~~must~~shall clearly indicate that the company is providing the prepaid calling card services;

(C)-(I)(No change.)

(3) If a customer asks a prepaid calling services company how to file a complaint, the company must provide the following contact information: PUCT, Consumer Protection Division ~~Public Utility Commission of Texas, Office of Customer Protection~~, P.O. Box 13326, Austin, Texas 78711-3326; phone: (512) 936-7120 or in Texas (toll-free) 1-888-782-8477; ~~fax: (512) 936-7003~~; e-mail address:

customer@puc.texas.gov; Internet address: www.puc.texas.gov; ~~TTY: (512) 936-~~  
7136; and Relay Texas (toll-free): 1-800-735-2989.

(g) **Verbal disclosure requirements for prepaid calling services.** Prepaid calling services companies ~~must~~shall provide an announcement:

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

(h) **Registration requirements for prepaid calling services companies.** All prepaid calling services companies ~~must~~shall register with the commission in accordance with §26.107 of this title (relating to Registration of Interexchange Carriers (IXCs), Prepaid Calling Services Companies (PPC), and Other Nondominant Telecommunications Carriers.

(i) **Business and technical assistance requirements for prepaid calling services companies.** A prepaid calling services company ~~must~~shall provide a toll-free number with a live operator to answer incoming calls 24 hours a day, seven days a week or electronically voice record customer inquiries or complaints. A combination of live operators or recorders may be used. If a recorder is used, the prepaid calling services company ~~must~~shall attempt to contact each customer no later than the next ~~working~~business day following the date of the recording. Personnel must be sufficient in number and expertise to resolve customer inquiries and complaints. If an immediate resolution is not possible, the prepaid calling services company ~~must~~shall resolve the inquiry or complaint by calling the customer or, if the customer ~~so~~ requests, in writing within ten working days of the original request. In the event a complaint cannot be resolved within ten ~~working~~ days of

1 the request, the prepaid calling services provider ~~must~~shall advise the complainant in  
2 writing of the status and subsequently complete the investigation within 21 ~~working~~ days  
3 of the original request.

4  
5 (j) **Requirements for refund of unused balances.** If a prepaid calling services company fails  
6 to provide ~~services~~services at the rates disclosed at the time of initial purchase or at the time  
7 an account is recharged, or fails to meet technical standards, the prepaid calling services  
8 company ~~must~~shall either refund the customer for ~~each~~any unused prepaid calling  
9 ~~services~~services or provide equivalent ~~services~~services.

10  
11 (k) **Requirements when a prepaid calling services company terminates operations in this**  
12 **state.**

13 (1) When a prepaid calling services company expects to terminate operations in this  
14 state for any reason, the company ~~must~~shall at least 30 days prior to the termination  
15 of operations:

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

17 (2) Within 24 hours after ceasing operations, the prepaid calling services company  
18 ~~must~~shall deliver to the commission a list of names, if known, and account numbers  
19 of all customers with unused balances. For each customer, the list ~~must~~shall include  
20 the following:

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

22

(l) **Date of compliance for prepaid calling card services companies.** ~~Prepaid~~All prepaid calling ~~services~~services offered for sale in the state of Texas and ~~each~~all prepaid calling services ~~company must~~companies ~~shall~~ be in compliance with this rule within six months of the effective date of this section.

(m) **Compliance and enforcement.**

(1) **Administrative penalties.** If the commission finds that a prepaid calling services company has violated any provision of this section, the commission ~~will must~~shall order the company to take corrective action, as necessary, and the company may be subject to administrative penalties and other enforcement actions in accordance with PURA~~pursuant to the Public Utility Regulatory Act~~, Chapter 15.

(2) **Enforcement.** The commission ~~will must~~shall coordinate its enforcement efforts against a prepaid calling services company for fraudulent, unfair, misleading, deceptive, or anticompetitive business practices with the Office of the Attorney General ~~in order~~ to ensure consistent treatment of specific alleged violations.

1   **§26.52.       Emergency Operations.**

2  
3   (a)     This section does not apply to the retail services of an electing company, as defined by the  
4           Public Utility Regulatory Act (PURA) §58.002, or to the retail nonbasic services offered  
5           by a transitioning company, as defined by PURA §65.002.  
6

7   (b)     **Emergency power requirements.**

8       (1)   Each dominant certificated telecommunications utility's (DCTU) central office not  
9           equipped with permanently installed standby generators ~~must~~shall contain ~~as a~~  
10          ~~minimum~~adequate provisions for emergency power, including four hours of battery  
11          reserve without voltage falling below the level required for proper operation of all  
12          equipment. ~~It is also essential that all central offices have adequate provisions for~~  
13          ~~emergency power.~~

14       (2)   In central offices without installed emergency power facilities, there ~~must~~shall be  
15          a mobile power unit available ~~that~~which can be delivered and connected on short  
16          notice.

17       (3)   As applicable, each DCTU must comply with the backup power obligations  
18          prescribed by federal law or other applicable regulations, including the  
19          requirements of 47 Code of Federal Regulations § 9.20.  
20

21   (c)     In exchanges exceeding 5,000 lines, a permanent auxiliary power unit ~~must~~shall be  
22          installed.  
23  
24

1   **§26.53.       Inspections and Tests.**

2  
3   (a)   This section does not apply to the retail services of an electing company, as defined by  
4       Public Utility Regulatory Act (PURA) §58.002, or to the retail nonbasic services offered  
5       by a transitioning company, as defined by PURA §65.002.  
6

7   (b)   Each dominant certificated telecommunications utility (DCTU) ~~must~~shall adopt a program  
8       of periodic tests, inspections, and preventive maintenance aimed at achieving efficient  
9       operation of its system and rendition of safe, adequate, and continuous service.  
10

11   (c)   Each DCTU ~~must~~shall maintain or have access to test facilities enabling it to determine the  
12       operating and transmission capabilities of all equipment and facilities. The actual  
13       transmission performance of the network ~~must~~shall be monitored to determine if the  
14       service objectives in this chapter are met. This monitoring function ~~must~~shall include, but  
15       ~~not be limited to~~, circuit order tests prior to placing trunks in service, routine periodic trunk  
16       maintenance tests, tests of actual switched trunk connections, periodic noise tests of a  
17       sample of customer loops in each exchange, and special transmission surveys of the  
18       network.  
19

20   (d)   Each central office serving more than 300 customer access lines ~~must~~shall be equipped  
21       with a 1,000 +/- 20 hertz, one milliwatt test signal generator and a 900 Ohm balanced  
22       termination device wired to telephone numbers so that they may be accessed for dial test  
23       purposes. Upon commission request, each~~Each~~ DCTU ~~must provide~~shall advise the  
24       commission of the numbers assigned for these test terminations.

1   **§26.54.       Service Objectives and Performance Benchmarks.**

2  
3   (a)   **Applicability.** This section establishes service objectives ~~for that should be provided by a~~  
4       dominant certificated telecommunications utility (DCTU), as applicable. A deregulated  
5       company that holds a certificate of operating authority or a transitioning company in a  
6       market that is deregulated, is exempt from complying with the retail quality of service  
7       standards and reporting requirements in this section.

8       (1) ~~This~~ The section outlines performance benchmark levels for each exchange. If  
9       service quality falls below the applicable performance benchmark for an exchange,  
10      that indicates a need for the utility to investigate, take appropriate corrective action,  
11      and provide a report of such ~~action activities~~ to the commission.

12      (2) The objective service levels are based on monthly averages, except for dial service  
13      and transmission requirements, which are based on specific samples. DCTUs  
14      ~~must~~~~shall~~ make measurements to determine the level of service quality for each  
15      item included in this section.

16      (3) ~~Upon commission request, a~~Each DCTU ~~must~~~~shall~~ provide the commission with  
17      the measurements and summaries for any of the service or performance benchmarks  
18      provided by this section~~items included herein on request of the commission.~~  
19      Records of these measurements and summaries ~~must~~~~shall~~ be retained by the DCTU  
20      as specified by the commission.

21      (4) For purposes of this section, an “answer” means that the operator, interactive voice  
22      system, or representative, is ready to render assistance or ready to accept

1 information necessary to process the call. An acknowledgment that the customer  
2 is waiting on the line does not constitute an answer.  
3

4 ~~(b) — One-party line service and voice band data:~~

5 ~~(1) — One-party line service will be made available to all subscribers of local exchange~~  
6 ~~service upon request.~~

7 ~~(2) — All open wire transmission media shall be replaced with more reliable and better~~  
8 ~~quality transmission media by the end of 1998, unless otherwise exempted by the~~  
9 ~~commission. Any utility that obtained an exemption from this requirement shall~~  
10 ~~file a report with the commission on the status of its open wire replacement program~~  
11 ~~by June 1, 2000, and if all open wire replacement is not complete by that date, every~~  
12 ~~three months thereafter until the replacement program is complete.~~

13 ~~(3) — All switched voice circuits shall be adequately designed and maintained to allow~~  
14 ~~transmission of at least 14,400 bits of data per second when connected through an~~  
15 ~~industry standard modem (ITU-T V.32bis or equivalent) or a facsimile machine~~  
16 ~~(ITU-T V.17 or equivalent).~~  
17

18 ~~(be)~~ Each~~The~~ DCTU must~~shall~~ comply with the service quality objectives established below in  
19 providing the basic telecommunications service to its end-use customers and must.~~The~~  
20 ~~DCTU shall~~ file its service quality performance report on a quarterly basis. The report  
21 must~~shall~~ include its monthly performance for each category of performance  
22 objectives~~objective~~ and provide a summary of its corrective action plan for each exchange  
23 in which the performance falls below the benchmark. Additionally, the corrective action



1 plan ~~must~~shall include, at a minimum, details outlining how the ~~necessary~~needed  
2 improvements will be implemented within three months from the filing of the service  
3 quality performance report and will result in performance at or above the applicable  
4 benchmark.

5 (1) **Installation of service.** Unless otherwise provided by the commission:

6 (A) Ninety-five percent of the DCTU's service orders for installing primary  
7 service ~~must~~shall be completed within five working days, excluding those  
8 orders where a later date was specifically requested by the customer.  
9 Performance Benchmark Applicable for Corrective Action: If the  
10 performance is below 95% in any exchange area for a period of three  
11 consecutive months, the DCTU ~~must~~shall provide a detailed corrective  
12 action plan for such an exchangeexchanges or wire centercenters.

13 (B) Ninety percent of the DCTU's service orders for regular service  
14 installations ~~must~~shall be completed within five working days, excluding  
15 those orders where a later date was specifically requested by the customer.  
16 This includes orders for any primary service, installation, move, change, or  
17 other service, except for and other services, installations, moves, or  
18 changes, but not any complex servicesservices. Performance Benchmark for  
19 Corrective Action: If the performance is below 90% in any exchange area  
20 for a period of three consecutive months the DCTU ~~must~~shall provide a  
21 detailed corrective action plan for such an exchangeexchanges or wire  
22 centercenters.

- (C) Ninety-nine percent of the DCTU's service orders for service installations ~~must~~shall be completed within 30 days. Performance Benchmark for Corrective Action: If the performance is below 99% in any exchange area for a period of three consecutive months, the DCTU ~~must~~shall provide a detailed corrective action plan for such an exchange or wire center.
- (D) One-hundred percent of the DCTU's service orders for service installations ~~must~~shall be completed within 90 days.
- (E) Each DCTU ~~must~~shall establish and maintain installation time commitment guidelines for the various complex services contained in the DCTU's~~its~~ tariff. Those guidelines should be available for public review and should be applied in a nondiscriminatory manner.
- (F) The installation interval measurements outlined in subparagraphs (A)–(D) and (H) of this paragraph ~~must~~shall commence ~~by~~with either the date of application or the date on which the applicant qualifies for service, whichever is later.
- (G) The DCTU ~~must~~shall provide to the customer a commitment~~due~~ date on which the requested installation or change ~~will~~shall be made. If a customer requests that the installation or change be performed~~work be done~~ on a regular working day later than the date proposed~~that offered~~ by the DCTU, then the customer's requested date ~~will~~shall be the commitment date. If a premises visit is required, the DCTU ~~must~~shall schedule an appointment period with the customer for the morning or afternoon, not to exceed a four-hour time period, on the commitment~~due~~ date. If the DCTU is unable to

1 keep the appointment, the DCTU ~~must~~shall attempt to notify the customer  
2 by a telephone call and schedule a new appointment. If unable to gain  
3 access to the customer's premises during the scheduled appointment period,  
4 the ~~DCTU's~~DCTU carrier representative ~~must~~shall leave a notice at the  
5 customer's premises advising the customer how to reschedule the work.

6 (H) Ninety percent of the DCTU's commitments to customers for the date of  
7 installation of service orders ~~must~~shall be met, excepting customer-caused  
8 delays. Performance Benchmark Applicable for Corrective Action: If the  
9 performance is below 90% in any exchange area for a period of three  
10 consecutive months, the DCTU ~~must~~shall submit a list of missed  
11 commitments to the commission and provide a detailed corrective action  
12 plan for such an exchange or wire center.

13 (I) The installation interval and commitment requirements of subparagraphs  
14 (A) - (D) and (H) of this paragraph do not include service orders either to  
15 disconnect service or to make only record changes on a customer's account.

16 (J) A held regrade order means an order~~is one~~ not filled within 30 days after  
17 the customer has submitted an~~made~~ application for a different grade of  
18 service, except where the customer requests a later date. In the event of the  
19 DCTU's inability to so fill such an order, the customer ~~must~~should be  
20 advised and told when the DCTU can fulfill the order. The number of held  
21 regrade orders ~~must~~shall not exceed 1.0% of the total number of customer  
22 access lines served.

(2) **Operator-handled calls.** For each exchange, a DCTU must, on a monthly basis,~~DCTUs shall~~ maintain adequate personnel to provide an average operator answering performance as follows ~~for each exchange on a monthly basis:~~

(A) Eighty-five percent of toll and assistance operator calls answered within ten seconds, or average answer time must~~shall~~ not exceed 3.3 seconds.

Benchmark for Corrective Action: If the performance is either below 85% within ten seconds or if the average exceeds 3.3 seconds at any answering location in any given month, the DCTU must~~shall~~ provide a detailed corrective action plan for such an exchange or wire center.

(B) Ninety percent of repair service calls must~~shall~~ be answered within 20 seconds or average answer time must~~shall~~ not exceed 5.9 seconds.

Benchmark for Corrective Action: If the performance is below 90% within 20 seconds or the average answer time exceeds 5.9 seconds at any answering location for a period of five days within any given month, the DCTU must~~shall~~ provide a detailed corrective action plan for such an exchange or wire center.

(C) Eighty-five percent of directory assistance calls must~~shall~~ be answered within ten seconds or the average answer time must~~shall~~ not exceed 5.9 seconds. Benchmark for Corrective Action: If the performance is either below 85% within ten seconds or if the average answer time exceeds 5.9 seconds at any answering location in any given month, the DCTU must~~shall~~ provide a detailed corrective action plan for such an exchange or wire center.

~~(D) An “answer” means shall mean that the operator, interactive voice system, or representative, is ready to render assistance and/or ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an “answer.”~~

~~(DE)~~ DCTUs may measure answer time on a toll center or operating unit basis as an alternative to ~~in lieu of~~ measuring answer time in each exchange unless specifically requested by the commission.

(3) **Local dial service.** Sufficient central office capacity and equipment ~~must~~shall be ~~utilized~~provided to meet the following requirements:

(A) dial tone within three seconds on 98% of calls. For record-keeping and reporting purposes, 96% in three seconds during average busy season ~~and/or busy hour~~ complies ~~shall be acceptable as complying~~ with this requirement;

(B) completion of 98% of ~~intraoffice calls (those~~ calls originating and terminating within the same central office building) (intraoffice calls) without encountering network congestion or blockage ~~an equipment busy condition (blockage)~~ or equipment irregularities~~failure~~;

(C) for every switch that serves a customer~~customers~~, the availability factor for stored program controlled digital and analog switching facilities ~~must~~shall be 99.99%, or the total unscheduled outage for each switch ~~must~~shall not exceed 53 minutes per year.

(D) For any exchange that falls below the established performance objective level, ~~a~~A report detailing the cause and proposed corrective action for the

1 local dial service measures, ~~for any exchange that falls below the~~  
2 ~~established performance objective level~~, must be submitted to the  
3 commission.

4 **(4) Local interoffice dial service.**

5 (A) Each DCTU ~~must~~<sup>shall</sup> provide and maintain interoffice trunks on its portion  
6 of the local exchange service network so that 97% of the interoffice local  
7 calls excluding calls between central offices in the same building are  
8 completed without encountering equipment busy conditions or equipment  
9 failures. For a DCTU's<sup>DCTUs'</sup> testing, record-keeping, and reporting  
10 purposes, ~~the DCTU is~~<sup>DCTUs are</sup> not required to separate local dial service  
11 results from local interoffice dial service results unless specifically  
12 requested by the commission.

13 (B) The availability factor for stored program controlled digital and analog  
14 switching and interoffice transmission facilities for end-to-end transmission  
15 ~~must~~<sup>shall</sup> be 99.93%, or the total unscheduled outage ~~must~~<sup>shall</sup> not exceed  
16 365 minutes per year.

17 (C) For any exchange that falls below the established performance objective  
18 level, a<sup>A</sup> report detailing the cause and proposed corrective action for the  
19 local dial service measures, ~~for any exchange that falls below the~~  
20 ~~established performance objective level~~, must be submitted to the  
21 commission.

22 **(5) Direct distance dial service.** Engineering and maintenance of the trunk and related  
23 switching components in the toll network ~~must~~<sup>shall</sup> permit 97% completion on

properly dialed calls, without encountering failure because of network congestion or blockages, or equipment irregularities. For any exchange that falls below the established performance objective level, the DCTU must submit to the commission a report detailing the cause and proposed corrective action for the direct distance dial service measure, for any exchange that falls below the established performance objective level, must be submitted to the commission.

(6) **Customer trouble reports.**

(A) ~~A~~The DCTU that serves more than 10,000 access lines ~~must~~shall maintain its network service in a manner that ensures the DCTU# receives no more than three customer trouble reports on a company-wide basis, excluding customer premises equipment (CPE) reports, per 100 customer access lines per month (on average). Performance Benchmark Applicable for Corrective Action: If the customer trouble report exceeds 3.0%, or ~~(three per 100 access lines,)~~ for a large exchange or 6.0%, or ~~(six per 100 access lines,)~~ for a small~~smaller~~ exchange for three consecutive months, the DCTU ~~must~~shall provide a detailed corrective action plan for such an exchange or wire center. For purposes of this section, a large exchange is defined as an exchange serving 10,000 or more access lines and a small exchange is defined as an exchange serving less than 10,000 access lines.

(B) ~~A~~The DCTU that serves 10,000 or less access lines ~~must~~shall maintain its network service in a manner that ensures the DCTU# receives no more than six customer trouble reports on a company-wide basis, excluding CPE~~customer premises equipment (CPE)~~ reports, per 100 customer access

lines per month (on average). Performance Benchmark Applicable for Corrective Action. If the customer trouble report exceeds 6.0% or (six per 100 access lines) per exchange for three consecutive months, the DCTU ~~must~~shall provide a detailed corrective action plan for such an exchange or wire center.

(C) The DCTU ~~must~~shall provide to the customer a commitment ~~date~~time by which the trouble will be cleared. If a premises visit is required, the DCTU ~~must~~shall schedule an appointment period with the customer for the morning or afternoon, not to exceed a four-hour time period, on the commitment date. ~~If~~When the DCTU cannot keep an appointment, the DCTU ~~must~~shall attempt to notify the customer by a telephone call and schedule a new appointment. If unable to gain access to the customer's premises during the scheduled appointment period, the DCTU representative ~~must~~shall leave a notice at the premises advising the customer how to reschedule the work.

(D) At least 90% of out-of-service trouble reports on service provided by a DCTU ~~must~~shall be cleared within eight ~~working~~ hours, except where access to the customer's premises is required but ~~unavailable~~not available or where interruptions are caused by a force majeure~~unavoidable casualties and acts of God~~ affecting large groups of customers. Performance Benchmark Applicable for Corrective Action: If the performance is below 90% in any exchange area for a period of three consecutive months, the



DCTU ~~must~~shall provide a detailed corrective action plan for such an exchange or wire center.

(E) Each DCTU ~~must~~shall establish procedures to ~~ensure~~insure the prompt investigation and correction of trouble reports so that the percentage of repeated trouble reports on residence and single line business lines does not exceed 22% of the total customer trouble reports on those lines. Performance Benchmark Applicable for Corrective Action: If repeat reports exceed 22% of the total customer trouble report in any exchange for three consecutive months, the DCTU ~~must~~shall provide a detailed corrective action plan for such an exchange or wire center.

(7) **Transmission requirements.** All voice-grade trunk facilities ~~must~~shall conform to accepted transmission design factors and ~~must~~shall be maintained to meet the following objectives when measured from line terminals of the originating central office to the line terminals of the terminating central office. A periodic report for central offices or exchanges as requested by the commission staff ~~must~~shall be provided by the DCTU, ~~in order~~ to demonstrate compliance with the following objectives.

(A) Interoffice local exchange service calls. Excluding calls between central offices in the same building, 95% of the measurements on the network of a DCTU should have a C-message weighting between ~~from~~ two to ten decibels loss at 1000+20 hertz and no more than 30 decibels above reference noise level ~~(“C” message weighting)~~.

(B) Direct distance dialing. Ninety-five percent of the transmission measurements should have a C-message weighting from three to 12 decibels loss at 1000+20 hertz and no more than 33 decibels above reference noise level (~~“C” message weighting~~).

(C) Subscriber lines. All newly constructed and rebuilt subscriber lines ~~must~~ shall be designed for a transmission loss of no more than eight decibels from the serving central office to the customer premises network interface. All subscriber lines ~~must~~ shall be maintained so that transmission loss does not exceed ten decibels. Subscriber lines ~~must~~ shall in addition be constructed and maintained so that metallic noise does not exceed a C-message weighting of 30 decibels above reference noise level (~~“C” message weighting~~) on 90% of the lines. Metallic noise ~~must~~ shall not exceed a C-message weighting of 35 decibels above reference noise level (~~“C” message weighting~~) on any subscriber line.

(D) Private Branch Exchange (PBX)~~PBX~~, key, and multiline trunk circuits. ~~PBX~~, key, and multiline trunk circuits ~~must~~ shall be designed and maintained so that transmission loss at the subscriber station does not exceed eight decibels. If the PBX or other terminating equipment is customer-owned and, if transmission loss exceeds eight decibels, the DCTU's responsibility ~~is~~ shall be limited to providing a trunk circuit with no more than five decibels loss from the central office to the point of connection with the customer's~~customer~~ facilities.

(E) Impulse Noise Limits. The requirements for impulse noise limits ~~are shall~~  
be as follows:

(i) For switching offices, the noise level count ~~must shall~~ not exceed five pulses above the threshold in any continuous five minute period on 50% of test calls. The reference noise level threshold ~~must shall~~ be less than: 54 decibels above reference noise with C-message weighting (dBrnC) for a Crossbar switch, 59 dBrnC for a step-by-step switch, and 47 dBrnC for a electronic or digital switch.

(ii) For trunks, the noise level count ~~must shall~~ not exceed five pulses above the threshold in any continuous five minute period on 50% of trunks in a group. The reference noise level threshold ~~must shall~~ be less than 54 dBrnC at a zero transmission level point (dBrnC0) dBrnC0 for voice frequency trunks, and 62 dBrnC0~~dBrnC0~~ for digital trunks.

(iii) For loop facilities, the noise level count ~~must shall~~ not exceed 15 pulses above the threshold in any continuous 15 minute period on any loop. The reference noise level threshold ~~must shall~~ be less than 59 dBrnC when measured at the central office~~(CO)~~, or referred to the central office~~CO~~ through 1004 Hz loss.

1    **§26.55.       Monitoring of Service. (REPEALED)**

2

1   **§26.73.       Annual Earnings Report.**

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

7       (1)   Each utility ~~must~~shall report information related to the most recent calendar year as  
8       specified in the instructions to the report.

9       (2)   Each utility ~~must~~shall file a copy~~three copies~~ of the commission-prescribed  
10       earnings report with the commission ~~and shall electronically transmit one copy of~~  
11       ~~the report~~ no later than May 15th of each year.

12       (3)   (No change.)

13  
14   (b)   In addition to the utilities required to file under subsection (a) of this section, a  
15       telecommunications provider ~~must~~shall file with the commission the provider's annual  
16       earnings report if the provider:

17       (1)-(3) (No change.)

18  
19   (c)   (No change.)

20

1    **§26.78.       State Agency Utility Account Information. (REPEALED)**

2

1    **§26.79.       Equal Opportunity Reports.**

2    (a)    (No change.)

3  
4    (b)    The term “minority group members,” when used within this section, ~~must~~shall include only  
5           members of the following groups:

6           (1)-(5) (No change.)

7  
8    (c)    Each utility that files any form with local, state or federal governmental agencies relating  
9           to equal employment opportunities for minority group members, (e.g., EEOC Form EEO-  
10          1, FCC Form 395, RUS Form 268, etc.) ~~must~~shall file ~~a copy~~eopies of such completed  
11          ~~forms~~form with the commission. If such ~~a~~form submitted by a multi-jurisdictional utility  
12          does not indicate Texas-specific numbers, the utility ~~must~~shall also prepare, and file with  
13          the commission, a form indicating Texas-specific numbers, in the same format and based  
14          on the numbers contained in the form previously filed with local, state or federal  
15          governmental agencies. Each utility ~~must~~shall also file with the commission copies of any  
16          other forms required to be filed with local, state or federal governmental agencies which  
17          contain the same or similar information, such as personnel data identifying numbers and  
18          occupations of minority group members employed by the utility, and employment goals  
19          relating to them, if any.

20  
21   (d)    (No change.)

22

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

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

(g) A utility that files a report ~~in accordance with~~~~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) of this section.



1   **§26.80.       Annual Report on Historically Underutilized Businesses.**

2  
3   (a)   This section does not apply to a ~~deregulated~~ company that holds a certificate of operating  
4       authority, a company that holds a service provider certificate of operating authority, a  
5       registered interexchange carrier, or ~~to~~ an exempt carrier that meets the criteria of under  
6       Public Utility Regulatory Act (PURA) §52.154.

7  
8   (b)   In this section, “historically underutilized business” has the same meaning as defined by~~in~~  
9       Title 10, Subtitle D, Chapter 2161 of the Texas Government Code, ~~§481.191, as it may be~~  
10       ~~amended.~~

11  
12   (c)   Every utility ~~must~~shall report its use of historically underutilized businesses (HUBs) to the  
13       commission on ~~the~~ a form ~~prescribed~~approved by the commission. A utility may submit  
14       the report ~~on paper, physically~~ or digitally in ~~on paper and on a diskette (in Lotus 1-2-3~~  
15       ~~(\*utility name.wk\*) or Microsoft Excel (\*utility name.xls\*) format).~~

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

21       (2)   Every utility other than those specified in paragraph (1) of this subsection,  
22       ~~must~~shall on or before December 30 of each calendar year, submit to the  
23       commission a comprehensive annual report detailing its use of HUBs for the four

prior quarters ending on September 30 of the calendar year the report is filed, using the form prescribed by the commission~~Large Utilities HUB Report form~~.

(3) Each utility ~~that reports~~~~wishing to report~~ indirect HUB procurements or HUB procurements made by a contractor of the utility report such procurements separately on the form prescribed by the commission ~~may use the Supplemental HUB report form~~.

(4) Each utility ~~must~~~~shall~~ submit a text description of how it determined which of its vendors meets the criteria for~~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, ~~must~~~~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 the vendor is physically located ~~its physical location is situated~~ within the boundaries of Texas.

(6) Each utility ~~must~~~~shall~~ also file any other information necessary to accurately assess the utility's~~documents it believes appropriate to convey an accurate impression of its~~ use of HUBs.

(d) A utility is prohibited from utilizing information gathered to comply with this section~~This section may not be used~~ to discriminate against any citizen on the basis of race, nationality, color, religion, sex, or marital status.

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

1   **§26.85.       Report of Workforce Diversity and Other Business Practices.**

2  
3   (a)   **Purpose.** This section establishes annual reporting requirements for a telecommunications  
4       utility~~telecommunications~~ ~~utilities~~ to report its progress and efforts to improve workforce  
5       diversity and contracting opportunities for small and historically underutilized businesses  
6       from its five-year plan filed in accordance with~~pursuant to~~ the Public Utility Regulatory  
7       Act (PURA) §52.256(b).

8  
9   (b)   **Application.** This section applies to a telecommunications utility~~all telecommunications~~  
10       ~~utilities~~, as defined in PURA §51.002(11), doing business in the State of Texas. This  
11       section does not apply to a ~~deregulated~~ company that holds a certificate of operating  
12       authority, a company that holds a service provider certificate of operating authority, a  
13       registered interexchange carrier, or to an exempt carrier that meets the criteria of~~under~~  
14       PURA §52.154.

15  
16   (c)   **Terminology.** In this section, “small business” and “historically underutilized business”  
17       have the meaning~~meanings~~ assigned by the Texas Government Code §481.191.

18  
19   (d)   **Annual progress report of workforce and supplier contracting diversity.** An “Annual  
20       Progress Report on Five-Year Plan to Enhance Supplier and Workforce Diversity”  
21       must~~shall~~ be filed annually with the commission. The report must~~shall~~ be filed on or before  
22       December 30 of each year for the four prior quarters ending on September 30 of the year  
23       the report is filed. A telecommunications utility that was not operational on January 1,  
24       2000, and is required to file in accordance with~~pursuant to~~ PURA §52.256(b), must~~shall~~

1 file a plan in Project Number 21170 by December 30 of the year in which an annual report  
2 is due under this subsection.

3  
4 (e) **Filing requirements.** Four copies of the Annual Progress Report on Five-Year Plan to  
5 Enhance Supplier and Workforce Diversity ~~must~~ be filed with the commission's filing  
6 clerk under the project number assigned by the Public Utility Commission's Central  
7 Records Office for that year's filings. A Telecommunications utility ~~utilities~~ ~~must~~  
8 obtain the project number by contacting Central Records. A copy of the report ~~must~~  
9 also be sent to the Governor, the Lieutenant Governor, the Speaker of the House of  
10 Representatives, and the African-American and Hispanic Caucus offices of the Texas  
11 Legislature.

12  
13 (f) **Contents of the report.** The annual report filed with the commission in accordance with  
14 ~~this pursuant to this section~~ ~~must~~ may be filed using the Workforce and Supplier Contracting  
15 Diversity form or an alternative format prescribed by the commission and ~~must~~  
16 contain ~~at a minimum~~ the following information:

17 (1) An illustration of the diversity of the telecommunications utility's workforce in the  
18 State of Texas at the time of the report. If the telecommunications utility is required  
19 to file an Equal Opportunity Report in accordance with ~~pursuant to~~ §26.79 of this  
20 title (relating to Equal Opportunity Reports), a copy of that document may be  
21 attached to this report to satisfy the requirements of this paragraph.

22 (2) A description of the specific progress made under the workforce diversity plan filed  
23 in accordance with ~~pursuant to~~ PURA §52.256(b), including:

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

2 (3)-(5) (No change.)

3

4 (g)-(i) (No change.)

1    **§26.87.       Infrastructure Reports. (REPEALED)**

2

§26.89. Nondominant Carriers' Obligations Regarding Information on Rates and Services.

(a) Filing of tariff by nondominant carrier. ~~All~~ nondominant ~~carrier~~~~carriers~~, including a ~~nondominant carrier~~~~these~~ holding a certificate of operating authority or a service provider certificate of operating authority, may, but ~~is~~~~are~~ not required to file with the commission the information ~~listed under~~~~set forth in~~ paragraphs (1)—(3) of this subsection. If filed, ~~such~~~~This~~ information must~~shall~~ be updated and kept current at all times.

(1) A description of ~~each type~~~~the type(s)~~ of ~~telecommunication~~~~seommunications~~ service provided;

(2) For each service listed in response to paragraph (1) of this subsection, the locations in the state ~~(by city)~~ in which service is originated ~~and~~/or terminated. If a service is provided statewide, the carrier must specify either origination or termination~~If service is provided statewide, either origination or termination, the carrier shall so state; and~~

(3) A tariff, schedule, or list showing ~~each rate~~~~all recurring and nonrecurring rates~~ for each service, product, or commodity offered by the nondominant carrier~~provided.~~ A tariff must include each rule that relates to or affects a rate of the nondominant carrier, or a utility service, product, or commodity furnished by the nondominant carrier.

(b) Annual tariff update. By June 30 of each calendar year, each nondominant carrier that, during the previous 12 months, has not filed changes to the information ~~specified by~~~~filed~~



1 ~~pursuant to~~ subsection (a) of this section ~~must~~~~shall~~ file with the commission a letter  
2 informing the commission that no changes have occurred. An uncertificated nondominant  
3 carrier ~~that fails~~~~failing~~ to file either this letter or the updates ~~specified by~~~~pursuant to~~  
4 subsection (a) of this section during the 12\_-month period ending on June 30 ~~will~~~~may~~ no  
5 longer be ~~considered to be~~ registered with the commission.

6  
7 (c) **Filing of nondominant carrier tariff by affiliate or trade association.** An affiliate of a  
8 nondominant carrier or trade association may file the information listed under paragraphs  
9 (a)(1)-(3) of this section and subsection (b) of this section on behalf of a nondominant  
10 carrier.

11 (1) For each filing, the nondominant carrier must authorize the affiliate of the  
12 nondominant carrier or trade association, via written affidavit filed with the  
13 commission, to file such information on its behalf.

14 (2) The authorization specified by paragraph (1) of this subsection may be included in  
15 the filing by the affiliate of the nondominant carrier or trade association.

16 (3) The filing by affiliate of the nondominant carrier or trade association must comply  
17 with the requirements of this section and other applicable law.

18  
19  
20 (c) **Registration requirement for nondominant carriers.** ~~AAH~~ nondominant ~~carrier~~  
21 ~~must~~~~carriers shall~~ comply with the registration requirements ~~of~~~~in~~ §26.107 of this title  
22 (relating to Registration of Interexchange Carriers (IXCs), Prepaid Calling Services  
23 Companies (PPC), and Other Nondominant Telecommunications Carriers).



(d) **Exceptions.** A nondominant carrier:

(1) may, but is not required to, maintain on file with the commission each tariff, price list, or customer service agreement that governs~~tariffs, price lists, or customer service agreements governing~~ the terms of providing service;

(2) may cross-reference its federal tariff in its state tariff if its intrastate switched access rates are the same as its interstate switched access rate;

(3) may withdraw a tariff, price list, or customer service agreement not required to be filed or maintained with the commission under this section if the nondominant carrier~~it~~:

(A) files written notice of the withdrawal with the commission; and

(B) notifies each of its customers of the withdrawal and posts each~~the~~ current and applicable tariff, price list, or customer service agreement~~tariffs, price lists, or generic customer service agreements~~ on its Internet website.

(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 of such a service;

(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:

- 1                   (i)     has 500,000 or more access lines in service at the time it becomes a  
2                               deregulated company; or  
3                   (ii)    serves an area also served by the nondominant telecommunications  
4                               utility.

5

1    **§26.111.       Certificate of Operating Authority (COA) and Service Provider Certificate**  
2                   **of Operating Authority (SPCOA) Criteria.**

3  
4    (a)   **Scope and purpose.** This section applies to the certification of a person or entity~~persons~~  
5           ~~and entities~~ to provide local exchange telephone service, basic local telecommunications  
6           service, and switched access service as holders of certificates of operating authority  
7           (COAs) and service provider certificates of operating authority (SPCOA) established in the  
8           Public Utility Regulatory Act (PURA), Chapter 54, Subchapters C and D.

9  
10   (b)   **Definitions.**

11       (1)   Affiliate -- An affiliate of, or a person affiliated with, a specified person, is a person  
12           that directly, or indirectly through one or more intermediaries, controls, is  
13           controlled by, or is under ~~the~~ common control with, the person specified.

14       (2)   Annual Report -- A report that includes, at a minimum, ~~but is not limited to~~ the  
15           certificate holder's primary business telephone number, toll-free customer service  
16           number, email address, authorized company contact, regulatory contact, complaint  
17           contact, primary and secondary emergency contacts ~~(primary and secondary)~~ and  
18           operation and policy migration contacts ~~(operation and policy)~~ which is submitted  
19           to the commission every calendar year ~~on an annual basis~~. Each provided contact  
20           must~~shall~~ include the contact's company title.

21       (3)   Application -- An application for a new COA or SPCOA certificate or an  
22           amendment to an existing COA or SPCOA certificate.

(43) Control -- The term control, (including the terms controlling, controlled by and under common control with,) means the power, either directly or indirectly through one or more affiliates, to direct or cause the direction of the management or policies of a person, whether through ownership of voting securities, by contract, or otherwise.

(54) Executive officer -- When used ~~in~~with reference to a person, means its president or chief executive officer, a vice-president serving as its chief financial officer, or a vice-president serving as its chief accounting officer, or any other officer of the person who performs any of the foregoing functions for the person.

(65) Facilities-based certification -- Certification that authorizes the certificate holder to provide service using its own equipment, unbundled network elements, or E9-1-1 database management associated with selective routing services.

(76) Permanent employee -- An individual that is fully integrated into the certificate holder's business. A consultant is not a permanent employee.

(87) Person -- ~~An~~Includes an individual and any business entity, including ~~and without limitation,~~a limited liability company, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association, but does not include a municipal corporation.

(98) Principal -- A person or member of a group of persons that controls the person in question.

(109) Shareholder -- As context indicates and the applicable business entity requires. ~~The term shareholder means the legal or beneficial owner of any of the equity in any business entity, including without limitation and as the context and applicable~~