

~~business entity requires~~, stockholders of corporations, members of limited liability companies and partners of partnerships.

(c) **Ineligibility for certification.**

(1) (No change.)

(2) An applicant is ineligible for a COA if the applicant has not created a proper separation of business operations between itself and an affiliated holder of a certificate of convenience and necessity, as required by PURA §54.102 ~~(relating to Application for Certificate).~~

(3) An applicant is ineligible for ~~ana~~ SPCOA if the applicant, and affiliates of the applicant together with its affiliates, in the aggregate have ~~has~~ more than 6.0% of the total intrastate switched access minutes of use as measured for the most recent 12-month period.

(4) (No change.)

(d) **Application for COA or SPCOA certification.** A person is prohibited from providing local exchange telephone service, basic local telecommunications service, or switched access service unless the person obtains a certificate of convenience and necessity in accordance with §26.101 of this title (relating to Certificate of Convenience and Necessity Criteria), or a certificate of operating authority or a service provider certificate of operating authority in accordance with this section.

(1) An applicant ~~person applying~~ for COA or SPCOA certification must demonstrate ~~theits~~ capability of complying with this section. An applicant ~~A person~~ who

1 ~~obtain~~~~operates~~ as a COA or SPCOA, or who receives a certificate under this
2 section ~~must~~~~shall~~ maintain compliance with this section.

3 (2) An application ~~for certification~~ ~~must~~~~shall~~ be made on ~~the form prescribed~~ ~~a form~~
4 approved by the commission, verified by oath or affirmation, and signed by an
5 executive officer of the applicant.

6 (43) Except where good cause exists to extend the time for review, the presiding officer
7 ~~must~~~~shall~~ issue an order finding whether the application is deficient or complete
8 within 20 days of filing. Deficient applications, including those without necessary
9 supporting documentation, will be rejected without prejudice ~~to the applicant's~~
10 ~~right to reapply.~~

11 (54) While an application ~~for a certificate or certification amendment~~ is pending, an
12 applicant ~~must~~~~shall~~ inform the commission of any material change in the
13 information provided in the application within five working days of any such
14 change.

15 (65) Except where good cause exists to extend the time for review, the presiding
16 ~~officer~~~~commission~~ will enter an order approving, rejecting, or approving with
17 modifications, ~~and a new or amendment~~ application within 60 days of the filing of
18 the application.

19 (76) While an application ~~for COA or SPCOA certification or certification amendment~~
20 is pending, an applicant ~~must~~~~shall~~ respond to any request for information from
21 commission staff within ten days after receipt of the request by the applicant.

(e) **Standards for granting certification to COA and SPCOA applicants.** The commission may grant a COA or SPCOA to an applicant that demonstrates eligibility in accordance with that it is eligible under subsection (c) of this section, has the technical and financial qualifications required by specified in this section, has the ability to meet the commission's quality of service requirements to the extent required by PURA and this title, and the applicant it and its executive officers and principals do not have a history of violations of rules or misconduct such that granting the application would be inconsistent with the public interest. In determining whether to grant a certificate, the commission will ~~must~~ ~~shall~~ consider whether the applicant has satisfactorily provided ~~all of~~ the information required under this section in the application ~~for a COA or SPCOA~~.

(f) **Financial requirements.** To obtain COA or SPCOA certification, an applicant must demonstrate ~~the~~ shareholders' equity as required by this subsection.

(1) To obtain facilities-based certification, an applicant must demonstrate shareholders' equity of not less than \$100,000. To obtain resale-only or data-only certification, an applicant must demonstrate shareholders' equity of not less than \$25,000.

(2) For the period beginning on the date of certification and ending one year after the date of certification, the certificate holder must ~~shall~~ not make any distribution or other payment to any shareholders or affiliates if, after giving effect to the distribution or other payment, the shareholders' equity of the certificate holder is less than the amount required by this paragraph. The restriction on distributions or other payments contained in this paragraph includes, ~~but is not limited to,~~ dividend

distributions, redemptions and repurchases of equity securities, ~~or~~ loans, or loan repayments to shareholders or affiliates.

- (3) Shareholders' equity ~~must~~shall be documented by an audited or unaudited balance sheet for the applicant's most recent quarter. The audited balance sheet ~~must~~shall include the independent auditor's report. The unaudited balance sheet ~~must~~shall include a sworn statement from an executive officer of the applicant attesting to the accuracy, in all material respects, of the information provided in the unaudited balance sheet.

- (g) **Technical and managerial requirements.** To obtain COA or SPCOA certification, an applicant must have and maintain the technical and managerial resources and ability to provide continuous and reliable service in accordance with PURA, commission rules, and other applicable laws.

- (1) (No change.)

- (2) To support technical qualification, ~~an applicant~~applicants must provide the following documentation: the name, title, number of years of telecommunications or related experience, and a description of the experience for each principal, consultant and/or permanent employee that the applicant will rely upon to demonstrate the experience required by paragraph (1) of this subsection.

- (3) An applicant ~~must~~shall include the following in its initial application for COA or SPCOA certification:

- (A) (No change.)

- 1 (i) The complaint history, disciplinary record, and compliance record
2 ~~must~~shall include information from any federal agency including the
3 U.S. Securities and Exchange Commission; any self-regulatory
4 organization relating to the sales of securities, financial instruments,
5 or other financial transactions; state public utility commissions, state
6 attorney general officers, or other regulatory agencies in states
7 where the applicant is doing business or has conducted business in
8 the past including state securities boards or commissions, the Texas
9 Secretary of State, Texas Comptroller's Office, and Office of the
10 Texas Attorney General. Relevant information ~~includes~~shall
11 ~~include~~ the type of complaint, status of complaint, resolution of
12 complaint, and the number of customers in each state where
13 complaints occurred.
- 14 (ii) The applicant may request to limit the inclusion of this information
15 if it would be unduly burdensome to provide, so long as the
16 information provided is adequate for the commission to assess the
17 complaint history, disciplinary record, and compliance record of the
18 applicant~~applicant's~~ and the principals and affiliates of the applicant
19 ~~applicant's principals' and affiliates' complaint history, disciplinary~~
20 ~~record, and compliance record.~~
- 21 (iii) (No change.)

(B) A summary of any history of insolvency, bankruptcy, dissolution, merger, or acquisition of the applicant or any predecessors in interest during the 60 months immediately preceding the application;

(C) A statement indicating whether the applicant or the principals of the applicant ~~applicant's principals~~ are currently under investigation or have been penalized by an attorney general or any state or federal regulatory agency for violation of any deceptive trade or consumer protection laws or regulations; and

(D) Disclosure of whether the applicant or principals of the applicant ~~applicant's principals~~ have been convicted or found liable for fraud, theft, larceny, deceit, or violations of any securities laws, customer protection laws, or deceptive trade laws in any state.

(4) Quality of service and customer protection.

(A) The applicant must affirm that it will meet the commission's applicable quality-of-service standards as listed on the quality of service questionnaire contained in the application. The quality-of-service standards include E9-1-1 compliance and local number portability capability. Data-only providers are not subject to the requirements for E9-1-1 and local number portability compliance as applicable to switched voice services.

(B) The applicant must affirm that it is aware of and will comply with the applicable customer protection rules and disclosure requirements as set forth in Chapter 26, Subchapter B, of this title (relating to Customer Service and Protection).

(5) Limited scope of COAs and SPCOAs. If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may:

(A) Limit the geographic scope of the COA.

(B) Limit the scope of an SPCOA's service to facilities-based, resale-only, data-only, geographic scope, or some combination of the preceding list.

(h) **Certificate Name.** All local exchange telephone service, basic local telecommunications service, and switched access service provided under a COA or SPCOA must be provided in the name under which certification was granted by the commission. The commission ~~will must~~ shall grant the COA or SPCOA certificate in only one name.

(1) The applicant must provide the following information from its registration with the Texas Secretary of State or registration with another state or county, as applicable:

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

(C) Certification ~~or~~ /file number; and

(D) (No change.)

(2) Business names ~~must~~ shall not be deceptive, misleading, inappropriate, confusing or duplicative of existing name currently in use or previously approved for use by a certificated telecommunications provider (CTU) ~~Certificated Telecommunications Provider (CTP)~~.

(3) Any name in which the applicant proposes to do business will be reviewed for compliance with paragraph (2) of this subsection. If the presiding officer determines that any requested name does not meet the requirements of paragraph (2) of this subsection, the presiding officer ~~must~~ shall notify the applicant that the

requested name may not be used by the applicant. The applicant will be required to amend its application to provide at least one suitable name ~~in order to~~ be certificated.

(i) **Amendment of a COA or SPCOA Certificate.**

(1) A person or entity granted a COA or SPCOA in accordance with this section ~~must by the commission shall~~ file an application to amend ~~at the~~ COA or an SPCOA certificate in a commission approved format ~~in order to~~:

(A) Change the corporate name or assumed name of the certificate holder.

(i) Name change amendments may be granted via ~~on an~~ administrative approval basis, if the holder is in compliance with applicable commission rules and no hearing is requested.

(ii) Commission staff will review any name in which the applicant proposes to do business. If staff determines that any requested name is deceptive, misleading, vague, inappropriate, or duplicative, it ~~must shall~~ notify the applicant that the requested name is prohibited for use ~~may not be used~~ by the applicant. ~~An~~ The applicant ~~is will be~~ required to provide at least one suitable name or the amendment will may be denied by the presiding officer.

(B) Change the geographic scope of ~~at the~~ COA or an and SPCOA.

(D) Change of type of provider ~~Type of Provider~~ from resale-only, facilities-based only or data-only ~~restrictions on~~ a SPCOA certificate.

(E) Discontinuation of service and relinquishment of certificate, or discontinuation of an optional serviceservices by a deregulated company holding a certificate of operating authority or an exempt carrier.

(i) A deregulated company holding a certificate of operating authority or an exempt carrier must~~Exempt Carrier shall~~ provide the information in subclauses (I)-(III) of this clause for the discontinuation of ~~its~~ service and relinquishment of its certificate, or discontinuation of an optional service. The requirements for the discontinuation of optional services do not apply to a deregulated company holding a certificate of operating authority or to an exempt carrier~~Exempt Carrier.~~

(I)-(III)(No change.)

(ii) A carrier that does not meet the criteria of clause (i) of this subparagraph must comply with~~For all other carriers, such an application is subject to~~ subsections (m) and (n) of this section to discontinue service, relinquish a certificate, or discontinue an optional service.

(2) If the application to amend the COA or SPCOA certificate is for a corporate restructuring, a change in internal ownership, or an internal change in controlling interest, the applicant may file an abbreviated amendment application, unless the ownership or controlling interest involves an uncertificated company, significant changes in management personnel, or changes to the underlying financial qualifications of the certificate holder that were previously approved by the

~~commission as previously approved.~~ If ~~the~~ commission staff cannot determine
~~make a determination of~~ continued compliance ~~with~~~~based on~~ the applicable
substantive rules ~~based on~~~~from~~ the information provided on the abbreviated
amendment application, then a full amendment application ~~must~~~~shall~~ be filed ~~by~~
the applicant.

- (3) When a certificate holder acquires or merges with another certificate holder, ~~(other~~
than a CCN holder), the acquiring entity must file a notice within 30 calendar days
of the closing of the acquisition or merger in a project established by staff. Staff
~~will~~~~must~~~~shall~~ have ten working~~10 business~~ days to review the notice and determine
whether a full amendment application will be required. If staff has not filed, within
ten working~~10 business~~ days, a request to docket the proceeding and determination
that a full amendment application is required, a notice of approval may be issued.
Notice to the commission ~~must~~~~shall~~ include but not be limited to:

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

(C) An affidavit from each certificated entity attesting to compliance ~~with~~~~of~~
COA or SPCOA certification requirements, as applicable.

- (4) No later than five working days after filing an ~~amendment~~ application ~~or~~
amendment ~~or amendment notice~~ with the commission, the applicant must provide
a copy of the ~~amendment~~ application or amendment to the Commission on State
Emergency Communications and, in accordance with subparagraphs (3)(A)-(C) of
this subsection, ~~or~~ notice to all affected 9-1-1 administrative entities ~~and the~~
~~Commission on State Emergency Communications.~~ The applicant may provide the
amendment application and notice via electronic mail.

(5) (No change.)

(j) **Non-use of certificates.** Applicants ~~must~~^{shall} use their COA or SPCOA certificates expeditiously.

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

(k) **Renewal of certificates.** Each COA and SPCOA holder ~~must~~^{is required to} file with the commission a renewal of its certification once every ten years. The commission may, prior to the ten year renewal requirement, require each COA and SPCOA holder to file, ~~the following year,~~ a renewal of its certification.

(1) The certification renewal ~~must include~~^{will consist} of:

(A) the certificate holder's name;

(B) the certificate holder's address; and

(C) the most recent version of the annual report the commission requires the certificate holder to submit to comply with subsection (1)(1) of this section, to the extent required by PURA and this title.

(2) ~~A~~^{The} certification renewal ~~must~~^{shall} be filed on or before June 1, 2014, and every ten years thereafter.

(3) COA or SPCOA holders will have an automatic extension of the filing deadline until October 1st of each reporting year to comply with paragraph (1) of this subsection. ~~Commission~~^{The commission} staff will send three notices to each COA and SPCOA holder that has not submitted its certification renewal by June 1st. The first notice will be sent on or before July 1st, the second notice will be sent on or

before August 1st, and the third notice will be sent on or before September 1st. Failure to send any of these notices by ~~commission staff~~~~the commission~~ or failure to receive any of these notices by a COA or SPCOA holder ~~must~~~~shall~~ not affect the requirement to renew a certificate under this section by October 1st of the renewal period.

(4) Failure to timely file the annual renewal required in paragraph (1) of this subsection on or before October 1st of each reporting year will automatically render the certificate of the COA or SPCOA invalid and therefore no longer in compliance with PURA §54.001.

~~(5) COA or SPCOA holders that are found to be invalid are no longer in compliance with PURA §54.001.~~

~~(5)~~ (6) COA or SPCOA holders that continue to provide regulated telecommunications services under an invalid COA or SPCOA may be subject to administrative penalties and other enforcement actions.

~~(6)~~ (7) A certificate holder whose COA or SPCOA certificate is invalid~~no longer valid~~ may obtain a new certificate only by complying with the requirements prescribed for obtaining an original certificate.

(l) **Reporting Requirements.**

(1) Each COA or SPCOA holder must provide and maintain accurate contact information ~~via~~~~using~~ the annual report to the extent required by PURA and this title. At a minimum, the COA or SPCOA holder ~~must~~~~shall~~ maintain a current regulatory contact person, complaint contact person, primary and secondary

emergency contact, operation and policy migration contact, business physical and mailing address, primary business telephone number, toll-free customer service number, and primary email address. The COA or SPCOA holder ~~must~~shall submit the required information in the manner established by the commission.

(2) (No change.)

(3) When terminating or disconnecting service to another ~~CTU~~CTP, ~~a COA or an~~and SPCOA holder ~~must~~holders shall file a copy of the termination ~~or~~ disconnection notice with the commission not later than two ~~working~~business days after the notice is sent to the ~~CTU~~CTP. The service termination ~~or~~ disconnection notice ~~must~~shall be filed ~~in~~under a project number established for that purpose.

(4) COA and SPCOA holders ~~must~~shall file a notice of the initiation of a bankruptcy in a project number established for that purpose. The notice must be filed not later than ~~five working days~~the fifth business day after the filing of the bankruptcy petition. The notice of bankruptcy must also include, at a minimum, the following information:

(A) The name of the certificated company that is the subject of the bankruptcy petition, the date and state in which bankruptcy petition was filed, type of bankruptcy ~~such as (e.g., Chapter 7, 11, or 13, and whether~~ the bankruptcy ~~it~~ is voluntary or ~~involuntary~~not), the bankruptcy case number; and

(B) The number of affected customers, the type of service ~~being~~ provided to the affected customers, and the name of ~~each provider~~the provider(s) of last resort associated with the affected customers.

(5) **Reports.**

1 (A) A certificate holder ~~must~~shall file all reports to the extent required by PURA
2 and this title, including ~~but not limited to:~~ §26.51 of this title (relating to
3 Reliability of Operations of Telecommunications Providers); §26.76 of this
4 title (relating to Gross Receipts Assessment Report); §26.80 of this title
5 (relating to Annual Report on Historically Underutilized Businesses);
6 §26.85 of this title (relating to Report of Workforce Diversity and Other
7 Business Practices); §26.89 of this title (relating to Nondominant Carriers'
8 Obligations Regarding Information on Rates and Services); §26.465 of this
9 title (relating to Methodology for Counting Access Lines and Reporting
10 Requirements for Certified Telecommunications Providers); and §26.467 of
11 this title (relating to Rates, Allocation, Compensation, Adjustments and
12 Reporting).

13 (B) An amendment for certification must include a copy of the applicant's most
14 recent tariff that has been approved by the commission in accordance with
15 §26.207 of this title (relating to Form and Filing of Tariffs), §26.208 of this
16 title (relating to General Tariff Requirements), and other commission rules
17 as applicable or specified by those provisions. A tariff that has not been
18 approved but is currently under review by the commission may be used to
19 satisfy this requirement.

20 (i) A control number for the project associated with the applicant's
21 most recently approved tariff or tariff that is currently under review
22 by the commission may be provided as an alternative to providing a
23 copy.

(ii) An entity subject to §26.89 of this title (Relating to Nondominant Carriers' Obligations Regarding Information on Rates and Services) may, but is not required to, comply with this paragraph.

(m) **Standards for cessation of operations~~discontinuation of service~~ and relinquishment of certification.** A COA or SPCOA holder may cease operations in the state only if authorized by the commission in accordance with this subsection~~commission authorization to cease operations has been obtained~~. A COA or SPCOA holder that ceases operations and relinquishes its certification must~~shall~~ comply with PURA §54.253 ~~(relating to Discontinuation of Service by Certain Certificate Holders)~~. This section does not apply to a deregulated company holding a certificate of operating authority or to an exempt carrier~~Exempt Carrier~~.

(1) Before the certificate holder ceases operations, it must give notice of the intended action to the commission, each affected customer, the Commission on State Emergency Communications (CSEC), each affected 9-1-1 administrative entity, the Office of Public Utility Counsel (OPUC), each wholesale provider of telecommunications facilities or services from which the certificate holder purchased facilities or services, the Texas Comptroller of Public Accounts, the Texas Secretary of State and the administrator of the Texas Universal Service Fund, and the Office of Public Utility Counsel (OPC).

(A) The notification letter must~~shall~~ clearly state the intent of the certificate holder to cease providing service.

(B) The notification letter must provide each customer~~shall give customers~~ a minimum of 61 days of notice of termination of service, and the date of the termination of service must~~shall~~ be clearly stated in the notification letter.

(C) The notification letter must inform each customer~~shall inform customers~~ of the carrier of last resort or make other arrangements to provide service as approved by each customer~~the customers~~.

(2) A COA or SPCOA holder that intends to cease operations must~~shall~~ file with the commission an application to cease operations and relinquish its certificate, and provide a copy of the application to CSEC. The application must ~~which shall~~ provide the following information:

(A) Name, address, and phone number of the certificate holder;

(B) (No change.)

(C) The commission control~~docket~~ number in which the COA or SPCOA was granted;

(D) A description of the areas in which service will be discontinued and whether basic local telecommunications service is available from other certificate holders in these areas;

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

(3) All customer deposits and credits must~~shall~~ be returned within 60 days of notification to cease operations and relinquish certification.

(4) Any switchover fees that will be charged to affected customers as a consequence of the cessation of operations must~~shall~~ be paid by the certificate holder relinquishing the certificate.

(5) Commission approval of the cessation of operations does not relieve the COA or SPCOA of obligations to its customers under contract or other applicable law.

(n) **Standards for discontinuing optional services.** A COA or SPCOA holder discontinuing an optional services ~~must~~shall comply with PURA §54.253. This section does not apply to a deregulated company holding a certificate of operating authority or to an exempt carrier~~Exempt Carrier~~.

(1) The COA or SPCOA holder ~~must~~shall file an application with the commission to discontinue optional services, which ~~must~~shall provide the following information:

(A) Name, address, and phone number of the certificate holder;

(B) (No change.)

(C) The commission control~~docket~~ number in which the COA or SPCOA was granted;

(D)-(F)(No change.)

(2) Notification to each customer receiving optional services is required, and must comply with the following requirements~~consisting of the following information~~:

(A) The notification letter ~~must~~shall clearly state the intent of the certificate holder to cease an optional service and a copy of the letter ~~must~~shall be provided to the commission and OPUC~~OPC~~.

(B) The notification letter ~~must~~shall give customers a minimum of 61 days of notice of the discontinuation of optional services.

(3) All customer deposits and credits ~~associated~~^{affiliated} with ~~the~~ discontinued optional ~~service must~~^{services} shall be returned within 30 days of the discontinuation.

(4) The certificate holder ~~must~~^{shall} maintain the optional services until it has obtained commission authorization to cease the optional services.

(5) If the amendment application to ~~amend~~ requests any change other than a name change, the factors as set forth in subsections (c) and (d) of this section may be considered by the commission in determining whether to approve an amendment to a COA or an SPCOA.

(o) **Revocation or suspension.** A certificate granted ~~in accordance with~~^{pursuant to} this section is subject to amendment, suspension, or revocation by the commission for violation of PURA or commission rules or if the commission determines that holder of the certificate does not meet the requirements under this section to the extent required by PURA and this title ~~to operate as a COA or SPCOA~~. A suspension of a COA or an SPCOA certificate requires the cessation of all ~~COA or SPCOA~~ activities associated with obtaining new customers in the state of Texas for a product or service that require a COA or an SPCOA. A revocation of a COA or SPCOA certificate requires the cessation of all ~~COA or SPCOA~~ activities in the state of Texas, that require a COA or an SPCOA in accordance with ~~pursuant to~~ commission order. The commission may also impose an administrative penalty on a person for a violation of PURA or commission substantive rules~~violations of law within its jurisdiction~~. Commission~~The commission~~ staff or any affected person may bring a complaint seeking to amend, suspend, or revoke a COA or an SPCOA~~SPCOA's~~

1 certificate. Grounds for initiating an investigation that may result in the suspension or
2 revocation include the following:

3 (1)-(2) (No change.)

4 (3) Failure~~Bankruptcy, insolvency, failure to meet financial obligations on a timely~~
5 basis, or the inability to obtain or maintain the financial resources needed to provide
6 adequate service;

7 (4)-(16)(No change.)

8

1 **§26.123. Caller Identification Services**

2
3 (a) (No change.)

4
5 (b) **Caller identification services (“caller ID”).**

6 (1) **Application.** This subsection ~~does not~~~~shall not be construed to~~ apply to:

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

8 (2) **Caller ID blocking.**

9 (A) Per-call blocking. All providers of caller ID ~~must~~~~shall~~ provide per-call
10 blocking at no charge to each telephone subscriber in the specific area in
11 which caller ID is offered.

12 (B) Per-line blocking.

13 (i) (No change.)

14 (ii) All providers of caller ID, ~~except with the exception of~~ commercial
15 mobile radio service providers, ~~must~~~~shall~~ provide per-line blocking
16 at no charge to a particular customer in the specific area in which
17 caller ID is offered if the commission receives from the customer
18 written certification that the customer has a compelling need for per-
19 line blocking. Commercial mobile radio service providers ~~must~~~~shall~~
20 provide per-line blocking to a particular customer in the specific
21 area in which caller ID is offered if the commission receives from
22 the customer written certification that the customer has a compelling
23 need for per-line blocking.

(I) When a customer requests per-line blocking through the commission, the provider of caller ID ~~must~~shall notify the customer by mail of the effective date that per-line blocking will be instituted.

(II)-(III) (No change.)

(iii) (No change.)

(3) **Blocking failures and provider responsibilities.** When a provider of caller ID service to a customer originating a call becomes aware of a failure to block the delivery of calling party information from a line equipped with per-line blocking or per-call blocking, (and the caller had attempted to block the call), it ~~must~~shall report such failure to the Caller ID Consumer Education Panel, the commission, and the affected customer if that customer did not report the failure. The provider ~~must~~shall report such failure to the commission by contacting the commission liaison to the panel. A reasonable effort ~~must~~shall be made to notify the affected customer within 24 hours after the provider becomes aware of such failure.

(4) **Public policy statement.** A provider of caller ID services ~~must~~shall inform all of its telephone subscribers of how the subscriber can unblock a line equipped with per-line blocking.

(5) **Filing of caller ID materials.** A provider of caller ID services must file all caller ID materials in Project 14505.

~~(5) **Caller ID Consumer Education Panel.** The Caller ID Consumer Education Panel shall consist of one person appointed by the Governor, one person appointed by the chair of the commission, after consultation with the Texas Council on Family~~

~~Violence, and one person appointed by the Public Counsel of the Office of Public Utility Counsel. A commission staff member shall serve as liaison between the panel and the commission.~~

~~(A) — Role of the Caller ID Consumer Education Panel. The panel shall meet at least quarterly to:~~

~~(i) — review the level of effort and effectiveness of consumer education materials;~~

~~(ii) — investigate whether educational materials are distributed in as effective a manner as marketing materials; and~~

~~(iii) — develop recommendations for the commission related to the safe use of caller ID services, promotion and preservation of privacy for both the called and calling customers, and efforts to decrease the likelihood of harm resulting from caller ID services.~~

~~(B) — Reporting. The panel shall file an annual report with the commission detailing its findings and recommendations pursuant to subparagraph (A) of this paragraph. The commission may implement the recommendations of the panel, as well as those of any interested party, to the extent consistent with the public interest.~~

~~(C) — Evaluation of the panel. The commission shall evaluate the panel annually. The evaluation shall be conducted by an evaluation team appointed by the executive director of the commission. The commission liaison, members of the panel, and any other commission employee who works either directly or indirectly with the panel shall not be eligible to serve on the evaluation~~

1 ~~team. The evaluation team will report to the commission in open meeting~~
2 ~~each August of its findings regarding:~~

3 ~~(i) the panel's work;~~

4 ~~(ii) the panel's usefulness; and~~

5 ~~(iii) if the panel is reimbursed for its costs by the state, the costs related~~
6 ~~to the panel's existence, including the cost of agency staff time spent~~
7 ~~in support of the panel's activities.~~

8 ~~(D) Duration of the panel. The panel shall disband on September 1, 1999, unless~~
9 ~~reauthorized by statute.~~

10 ~~(E) Filing of caller ID materials. A provider of caller ID services shall provide~~
11 ~~all existing caller ID materials used as well as all future materials (when~~
12 ~~they become available) as follows:~~

13 ~~(i) One copy of all such material shall be mailed to each member of the~~
14 ~~panel.~~

15 ~~(ii) Two copies of all such material shall be filed in Central Records~~
16 ~~under Project Number 14505.~~

17 (c) (No change.)
18

1 **§26.127. Abbreviated Dialing Codes.**

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

5 (d) **211 service.**

6 (1) ~~**ApplicationScope and purpose.**~~ This subsection applies to the assignment,
7 provision, and termination of 211 service. ~~Through this subsection, the commission~~
8 ~~intends to enhance the ability of the public to access services that provide free~~
9 ~~information and referral to community resources in situations that are not~~
10 ~~immediately life-endangering, but still represent a serious but less urgent threat to~~
11 ~~basic human needs and individuals' health or welfare.~~

12 (2) **Definitions.** The following words and terms, when used in this subsection,
13 ~~must~~shall have the following meanings unless the context indicates otherwise:

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

15 (D) **Information and referral service** -- A service whose primary purpose is
16 to maintain information about human service resources in the community
17 and to link people who need assistance with appropriate service providers
18 ~~and~~/or to supply descriptive information about the agencies or organizations
19 which offer services.

20 (E)-(G)(No change.)

21 (H) **211 service** -- A telecommunications service provided by a CTU to a
22 designated area information center through which the end user of a public

phone system ~~can~~~~has the ability to~~ access services providing free information and referrals regarding community service organizations.

(3) (No change.)

(4) **Use of the 211 system.**

(A) (No change.)

(B) The 211 network ~~must~~~~shall~~ not be used for commercial advertisements.

(5) **Privacy policy.** To preserve the privacy of callers who wish to use the 211 service anonymously, an AIC which uses Automatic Number Identification (ANI), Automatic Location Identification (ALI) service or other equivalent non-blockable information-gathering features for the provision of 211 service must establish an in-house procedure that is consistent with the AIRS national standards and the standards set forth by HHSC that allows access to the 211 service while honoring the caller's call and line-blocking preferences, ~~and~~/or caller anonymity.

(6) (No change.)

(e) **311 service.**

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

(3) A ~~CTU~~~~certificated telecommunications utility~~ must have a commission-approved application to provide 311 service.

(4) **Requirements of application by ~~CTU~~~~certificated telecommunications utility~~.**

(A) Applications, tariffs, and notices filed under this subsection ~~must~~~~shall~~ be written in plain language, ~~must~~~~shall~~ contain sufficient detail to give customers, governmental entities, and other affected parties adequate notice

1 of the filing, and ~~must~~shall conform to the requirements of §26.209 of this
2 title (relating to New and Experimental Services) or §26.211 of this title
3 (relating to Rate-Setting Flexibility for Services Subject to Significant
4 Competitive Challenges), whichever is applicable.

5 (B) A CTU ~~must~~shall provide a copy of the text of the proposed notice to notify
6 the public of the request for 311 service with the filing of an application for
7 regulatory approval of the ~~CTU's certified telecommunications utility's~~
8 provision of 311 service.

9 (C) No application for 311 service allowing the governmental entity to charge
10 its citizens a fee on a per-call or per-use basis for using the 311 system
11 ~~must~~shall be approved.

12 (D) All applications for 311 service ~~must~~shall include the governmental entity's
13 plan to educate its populace about the use of 311 at the inception of 311
14 service and its plan to educate its populace at the termination of the
15 governmental entity's provision of 311 service.

16 (5) **Notice.** The presiding officer ~~will~~shall determine the appropriate level of notice to
17 be provided and may require additional notice to the public.

18 (A) The ~~CTU must~~shall ~~certified telecommunications utility shall~~ file with the
19 commission a copy of the text of the proposed notice to notify the public of
20 the request for 311 service and the filing of an application for regulatory
21 approval of the ~~CTU's certified telecommunications utility's~~ provision of
22 311 service. This copy of the proposed notice ~~must~~shall be filed with the

commission not later than ten days after the ~~CTU~~~~certificated~~
~~telecommunications utility~~ receives the 311 service request; and

(B) The proposed notice ~~must~~~~shall~~ include the identity of the governmental entity, the geographic area to be affected if the new 311 service is approved, and the following language: “Persons who wish to comment on this application should notify the commission by (specified date, 30 days after notice is published in the *Texas Register*). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the ~~PUCT~~~~Public Utility Commission’s~~ Consumer~~Customer~~ Protection Division at (512) 936-7120 or toll free 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.~~”

(6) A ~~CTU~~ is authorized ~~to~~~~certificated telecommunications utility may~~ provide 311 service only to governmental entities.

(7) A 311 service request ~~must initiate~~~~shall start~~ the six-month deadline to “take any necessary steps to complete 311 calls” as required by the Federal Communications Commission’s Order *In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, FCC 97-51, 12 F.C.C.R. 5572 (February 19, 1997).

(8) 311 calls ~~must~~~~shall~~ not be completed over the 911 network or use the 911 database.

(9) The 311 network ~~must~~~~shall~~ not be used for commercial advertisements.

- (10) To preserve the privacy of callers who wish to use the governmental entity's non-emergency service anonymously, a ~~CTUcertificated telecommunications utility~~ which uses Automatic Number Identification (ANI) service, Automatic Location Identification (ALI) service or other equivalent non-blockable information-gathering features for the provision of 311 service must establish a non-abbreviated phone number that will access the same non-emergency police and governmental services as the 311 service while honoring callers' call- and line-blocking preference. When publicizing the availability of the 311 service, the governmental entity must inform the public if its 311 service has caller or number identification features, and must publicize the availability of the non-abbreviated phone number that offers the same service with caller anonymity. When a ~~CTUcertificated telecommunications utility~~ uses a Caller Identification service(~~Caller ID~~) services or other equivalent features to provide 311 service, relevant provisions of the commission's substantive rules and of the Public Utility Regulatory Act apply.
- (11) The commission ~~has~~shall have the authority to limit the use of 311 abbreviated dialing codes to applications that are found to be in the public interest.
- (12) The commission ~~has~~shall have the authority to decide which governmental entity ~~must~~shall provide 311 service when there are conflicting requests for concurrent 311 service for the same geographic area, to the extent that negotiations between or among the affected governmental entities fail. The commission ~~will~~ must~~shall~~ consider the following factors in determining conflicting requests for 311 service:
- (A) the nature of the ~~service~~service(s), including ~~but not limited to~~ the proposed public education portion; to be provided by the governmental entity; and

(B) the potential magnitude of use of the requested 311 service, such as (i.e.,
the number of residents served by the governmental entity and their
potential frequency of access to the governmental agencies wishing to use
the 311 service).

(13) When termination of 311 service is desired, the CTU must~~certificated~~
~~telecommunications utility shall~~ file a notice of termination with the commission
that contains:

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

(14) The commission, after receiving the CTU's~~certificated telecommunications~~
~~utility's~~ proposed notice of termination of 311 service and approving the proposed
notice through an administrative review, will cause the approved notice to be
published in the *Texas Register*.

(f) **811 service.**

(1) (No change.)

(2) **Authority.** Authority for One Call Excavation Notification resides with the Texas
Underground Facility Notification Corporation (TUFNG), ~~(doing business as One~~
~~Call Board of Texas and in accordance with referred to herein as TUFNG)~~ pursuant
~~to~~ Chapter 251 of the Texas Utilities Code.

(3) (No change.)

(4) **Limitations of liability.** Telecommunications providers whose 811 service is
regulated by the commission may limit their liability for the provision of 811

1 service through the inclusion of liability limitations in their tariffs. Liability for
2 gross negligence or willful misconduct ~~cannot~~must~~shall not~~ be limited.

3

1 **§26.128. Telephone Directories.**

2

3 (a) **Application.** The provisions of this section ~~applieshall apply~~ to all telephone directory
4 providers to the extent outlined ~~byin~~ this section. This section does not apply to a
5 deregulated company holding a certificate of operating authority, or to an exempt carrier
6 that meets the criteria of ~~under~~ Public Utility Regulatory Act (PURA) §52.154. For
7 purposes of this section, the term “a private for-profit publisher” ~~meanshall mean~~ a
8 publisher, other than a telecommunications utility or its affiliate, of a telephone directory
9 that contains residential listings and ~~that~~ is distributed to the public at minimal or no cost.

10

11 (b) **Telephone directory requirements for all providers.** ~~AAny~~ private, for-profit publisher,
12 and ~~any~~ telecommunications utility or affiliate of a telecommunications utility ~~its affiliate~~
13 that publishes a residential telephone directory ~~mustshall~~ comply with the following
14 requirements:

15 (1) A telephone directory ~~mustshall~~ contain a listing of each toll-free and local
16 telephone number for each of the following:

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

18 (2) The directory ~~mustshall~~ include the information required in paragraph (1) of this
19 subsection from the most current edition of the Capitol Complex Telephone System
20 Directory ~~State of Texas Telephone Directory~~ prepared and issued by the
21 Department of Information Resources ~~Services~~ and those modifications to the
22 Capitol Complex Telephone System Directory ~~State of Texas Telephone Directory~~
23 that are available upon request from the Department of Information Resources.

(3) All publishers ~~must~~shall contact the Department of Information Resources in writing to determine which issue of the Capitol Complex Telephone System Directory~~State of Texas Telephone Directory~~ is most current and to obtain the modifications referred to in paragraph (2) of this subsection. The Department of Information Resources ~~will~~shall respond within 30 days of receiving the request.

(4) The listings required by paragraph (1) of this subsection:

(A) may be located at the front of the directory or, if not located at the front of the directory, ~~must~~shall be referenced clearly on the inside page of the cover or on the first page following the cover before the main listing of residential and business telephone numbers;

(B) ~~must~~shall be labeled "GOVERNMENT OFFICES - STATE" in 24 point type;

(C) ~~must~~shall be bordered or shaded in such a way, ~~(on the three unbound sides with a border,)~~ that will distinguish the state listings from the other listings;

(D) ~~must~~shall be included in the directory at no cost to the agency or official;

(E) ~~must comply~~shall be in compliance with the categorization developed by the Records Management Interagency Coordinating Council. The categorization shall be available upon request from the Department of Information Resources. The listings ~~must~~shall be arranged in the following manner~~two ways~~:

(i) alphabetically by subject matter of state agencies; ~~or~~and

(ii) alphabetically by agency and public service name;

(F) ~~must~~shall include the telephone number for state of Texas government information: (512) 463-4630.~~(No change.)~~

(c) **Private for-profit publisher.** Any private for-profit publisher that publishes a residential telephone directory ~~must~~shall include in the directory a prominently displayed toll-free number and Internet mail address, established by the commission, through which a person may order a form to request to be placed on the Texas no-call list in order to avoid unwanted telemarketing calls.

(d) **Additional requirement for telecommunications utilities or affiliates that publish telephone directories.**

(1) A telecommunications utility or an affiliate of that utility that publishes a business telephone directory that is distributed to the public ~~must~~shall publish a listing of each toll-free and local telephone number of each elected official who represents all or part of the geographical area for which the directory contains listings.

(2) A telecommunications utility or an affiliate of that utility that publishes and causes to be distributed to the public a residential or business telephone directory ~~must~~shall prominently list in the directory the following information: "The Specialized Telecommunications Assistance Program (STAP) provides financial assistance to help Texas residents with disabilities purchase basic specialized equipment or services needed to access the telephone network. For more information, contact the Texas Department of Health and Human ~~Assistive and Rehabilitative Services,~~ ~~the Office for Deaf and Hard of Hearing Services~~ at (512) 438-4880~~407-3250.~~

(Voice) or (512) 407-3251 (TTY) Hearing and speech-impaired individuals may contact the Texas Department of Health and Human Services through Relay Texas at 1-800-735-2989 or <https://www.hhs.texas.gov/services/disability/deaf-hard-hearing/stap-services>~~www.dars.state.tx.us/dhhs/~~. This program is open to all individuals who are residents of Texas and have a disability.”

(e) **Requirements for telecommunications utilities found to be dominant.** This subsection applies to ~~any~~ telecommunications utility found to be dominant as to local exchange telephone service or ~~its affiliate~~ of a telecommunications utility that publishes a directory on behalf of ~~these~~ telecommunications utility.

(1) **Annual publication.** Telephone directories ~~must~~shall be published every calendar year~~annually~~. Except for customers who request that information be unlisted, directories ~~must~~shall list the names, addresses, and telephone numbers of all customers receiving local phone service, including customers of other certificated telecommunications utilities (CTUs) in the geographic area covered by that directory. Numbers of pay telephones need not be listed.

(2) **Distribution.** Upon issuance, a copy of each directory ~~must~~shall be distributed at no charge for each customer access line served by the telecommunications utility in the geographic area covered by that directory and, if requested, one extra copy per customer access line ~~must~~shall be provided at no charge. Notwithstanding any other law, a telecommunications provider or telecommunications utility may publish on its website a telephone directory or directory listing instead of providing for general distribution to the public of printed directories or listings. A provider

or utility that publishes a telephone directory or directory listing electronically ~~must~~shall provide a print or digital copy of the directory or listing to a customer on request. If a provider or utility chooses to publish its telephone directory or directory listings electronically, it ~~must~~shall notify its customers that the first print or digital copy requested by a customer in each calendar year will be provided at no charge to the customer. A printed or digital copy of each directory ~~must~~shall be furnished to the commission. A telecommunications utility ~~must~~shall also distribute copies of directories ~~in accordance with~~pursuant to any agreement reached with another CTU.

(3)-(4) (No change.)

~~(5) — **Sample long distance rates.** It shall also contain a section setting out sample long distance rates within the long distance service area, if any, on the network of the telecommunications utility for which the directory is issued, applicable at the time the directory is compiled for publication, with a clear statement that the published rates are effective as of the date of compilation.~~

~~(56)~~ **Customer addresses.** At the customer's ~~election~~option the directory ~~must~~shall list either the customer's street address, a post office box number, or no address. A charge ~~may~~can be imposed upon those customers who desire more than one address listing.

(f) **References to other sections relating to directory notification.** The requirements of this section are in addition to the requirements of the provisions referenced in paragraphs (1)–(4) of this subsection, ~~and any other law applicable section in this title. The applicability~~

of each of the sections referenced in paragraphs (1) – (4) of this subsection is unaffected by the inclusion of the reference in this subsection.

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

(g) **Additional requirements.** The following requirements apply to telecommunications utilities found to be dominant as to local exchange telephone service or its affiliate that publishes a directory on behalf of such telecommunications utility.

(1) **Directory assistance.** Each telecommunications utility ~~must~~shall list each customer with its directory assistance within 72 hours after service connection, ~~(except those numbers excluded from listing in subsection (e)(1) of this section,) to facilitate the provision of the requested telephone numbers based on customer names and addresses by~~ in order that the directory assistance operators can provide the requested telephone numbers based on customer names and addresses.

(2) **Non-assigned numbers.** All non-assigned telephone numbers in central offices serving more than 300 customer access lines ~~must~~shall be intercepted unless otherwise approved by the commission.

(3) **Disconnected numbers.** Disconnected residence telephone numbers ~~must~~shall not be reassigned for 30 days and disconnected business numbers ~~must~~shall not be reassigned, unless requested by the customer, for 30 days or the life of the directory, whichever is longer, unless no other numbers are available to provide service to new customers.

(4) **Incorrect listings.** If a customer's number is incorrectly listed in the directory and if the incorrect number is a working number and if the customer to whom the

incorrect number is assigned requests, the number of the customer to whom the incorrect number is assigned ~~must~~shall be changed at no charge. If the incorrect number is not a working number and is a usable number, the customer's number ~~must~~shall be changed to the listed number at no charge if requested.

- (5) **Changing telephone numbers to a group of customers.** When additions or changes in plant or changes to any other CTU's operations necessitate changing telephone numbers to a group of customers, at least 30 days' written notice ~~must~~shall be given to all customers so affected even though the addition or changes may be coincident with a directory issue.

1 **§26.130. Selection of Telecommunications Utilities.**

3 **(a) Purpose and Application.**

4 (1) **Purpose.** The provisions of this section are intended to ensure that all customers
5 in this state are protected from an unauthorized change in a customer's local or
6 long-distance telecommunications utility.

7 (2) **Application.** This section, including any references in this section to requirements
8 in 47 Code of Federal Regulations (C.F.R.) Subpart K (entitled "Changing Long
9 Distance Service"), applies to a "telecommunications utility," all
10 ~~"telecommunications utilities,"~~ as that term is defined in §26.5 of this title (relating
11 to Definitions). This section does not apply to an unauthorized charge unrelated to
12 a change in preferred telecommunications utility. Requirements related to proper
13 authorization for a billing charge by a telecommunication utility are which is
14 addressed ~~by~~ in §26.32 of this title (relating to Protection Against Unauthorized
15 Billing Charges ("Cramming")).

16 **(b) Definitions.** The following words and terms when used in this section ~~must~~ shall have the
17 following meanings unless the context indicates otherwise:

18 (1) (No change).

19 (2) **Customer** — Any person, including the person's spouse, in whose name telephone
20 service is billed, including individuals, governmental units at all levels of
21 government, corporate entities, and any other entity with legal capacity to request
22 a change in local service ~~and~~ or telecommunications utilities.

23 (3)-(5) (No change.)

(c) **Changes in preferred telecommunications utility.**

(1) **Changes by a telecommunications utility.** ~~A~~No telecommunications utility is ~~prohibited from submitting or executingshall submit or execute~~ a change on the behalf of a customer in the customer's selection of a provider of telecommunications service except in accordance with this section. Before a change order is processed by the executing telecommunications utility, the submitting telecommunications utility must obtain authorization from the customer that such change is desired for each affected telephone ~~line~~line(s) and ensure that verification of the authorization is obtained in accordance with 47 C.F.R. Subpart K. In the case of a change by written solicitation, the submitting telecommunications utility must obtain verification as specified in 47 C.F.R. Subpart K, and subsection (d) of this section, ~~relating to "Letters of Agency."~~ A change order must be verified by one of the following methods:

(A) Written or electronically signed authorization from the customer in a form that meets the requirements of subsection (d) of this section. A customer ~~must~~shall be provided the option of using another authorization method as an alternative to ~~in lieu of~~ an electronically signed authorization.

(B) Electronic authorization placed from the telephone number which is the subject of the change order, except in exchanges where automatic recording of the automatic number identification (ANI) from the local switching system is not technically possible. To verify the electronic authorization, ~~the~~The submitting telecommunications utility must:

(i) (No change.)

(ii) establish one or more toll-free telephone numbers exclusively for the purpose of verifying the change so that a customer calling toll-free ~~number~~number(s) will reach a voice response unit or similar mechanism that records the required information regarding the change and automatically records the ANI from the local switching system.

(C) Oral authorization by the customer for the change that meets the following requirements:

(i) The customer's authorization ~~must~~shall be given to an appropriately qualified and independent third party that obtains appropriate verification data including, at a minimum, ~~but not limited to,~~ the customer's month and year of birth, the customer's month and day of birth, mother's maiden name, or the last four digits of the customer's social security number. A corporation or partnership may provide its federal Employer Identification Number, or last six digits thereof, and the name and job title of the authorized representative for the corporation or partnership to satisfy this subparagraph.

(ii) The ~~entirety of the~~ customer's authorization and the customer's verification of authorization ~~must~~shall be electronically recorded ~~in their entirety~~ on audio tape, a wave sound file, or other recording device that is compatible with the commission's equipment.

- (iii) The recordings ~~must~~shall be dated and include clear and conspicuous confirmation that the customer authorized the change in telephone service provider.
- (iv) The third party verification ~~must~~shall elicit, at a minimum, the identity of the customer, confirmation that the person on the call is authorized to make the change in service, ~~the name(s) of the~~ name of each telecommunications ~~utility~~utilities affected by the change ~~but (not including the name of the displaced carrier), each~~the telephone ~~number~~number(s) to be switched, and the type of service involved. The third party verifier ~~must~~shall not market or advertise the telecommunications utility's services by providing additional information, including information regarding preferred carrier freeze procedures.
- (v) The 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 telecommunications utility or its sales representative initiating a three-way call or a call through an automated verification system ~~must~~shall drop off the call once a three-way connection with the third party verifier has been established unless:
- (l) the telecommunications utility files sworn written certification with the commission that the sales

representative is unable to drop off the sales call after initiating a third party verification. Such certification should provide sufficient information as to ~~each reason~~~~the reason(s)~~ for the inability of the sales agent to drop off the line after the third party verification is initiated. ~~A~~~~The carrier is~~~~shall~~ be exempt from this requirement for a period of two years from the date the carrier's certification was filed with the commission;

(II) a telecommunications utility~~utilities~~ that seeks~~wish~~ to extend ~~the~~~~their~~ exemption provided under subclause (I) of this clause ~~from this clause~~ must, before the end of the two-year period, and every two years thereafter, recertify to the commission the utility's continued inability to comply with this clause.

(viii) The third party verification must~~shall~~ immediately terminate if the sales agent of a telecommunications utility that has filed a sworn written certification in accordance with clause (vii) of this subparagraph responds to a customer inquiry or speaks after third party verification has begun.

(ix) The independent third party must~~shall~~:

(I)-(III)(No change.)

(2) **Changes by customer request directly to the local exchange company.** If a customer requests a change in the customer's current preferred telecommunications

utility by contacting the local exchange company directly, and that local exchange company is not the chosen carrier or affiliate of the chosen carrier, the verification requirements in paragraph (1) of this subsection do not apply. The customer's current local exchange company ~~must~~shall maintain a record of the customer's request for 24 months.

(d) **Letters of Agency (LOA).** A written or electronically signed authorization from a customer for a change of telecommunications utility ~~must~~shall use a letter of agency (LOA) as specified in this subsection:

(1) The LOA ~~must~~shall be a separate or easily separable document or located on a separate screen or webpage containing only the authorization and verification language described in paragraph (3) of this subsection for the sole purpose of authorizing the telecommunications utility to initiate a telecommunications utility change. The LOA must be fully completed, signed and dated by the customer requesting the telecommunications utility change. An LOA submitted with an electronically signed authorization ~~must~~shall include the consumer disclosures required by the *Electronic Signatures in Global and National Commerce Act* 47 United States Code §7001(c)§101(e).

(2) The LOA ~~must~~shall not be combined with inducements of any kind on the same document, screen, or webpage, except that the LOA may be combined with a check as specified in subparagraphs (A) and (B) of this paragraph:

(A) An LOA combined with a check may contain only the language set out in paragraph (3) of this subsection, and the necessary information to make the check a negotiable instrument.

(B) A check combined with an LOA ~~must~~shall not contain any promotional language or material but ~~must~~shall contain on the front and back of the check in easily readable, bold-faced type near the signature line, a notice similar in content to the following: “By signing this check, I am authorizing (name of the telecommunications utility) to be my new telephone service provider for (the type of service that will be provided).”

(3) LOA language.

(A) At a minimum, the LOA ~~must~~shall be clearly legible, printed in a text not smaller than 12-point type, and ~~must~~shall contain clear and unambiguous language that includes and confirms:

(i)–(ii)(No change.)

(iii) the name of the new telecommunications utility and that the customer designates ~~(insert name of the new telecommunications utility)~~ to act as the customer’s agent for the preferred carrier change;

(iv) that the customer understands that only one preferred telecommunications utility may be designated for each type of service, such as ~~{local, intraLATA, and interLATA service,}~~ for each telephone number. The LOA ~~must~~shall contain separate

statements regarding those choices, although a separate LOA for each service is not required;

(v) (No change.)

(vi) appropriate verification data, including, at a minimum, ~~but not limited to,~~ the customer's month and year of birth, the customer's month and day of birth, mother's maiden name, or the last four digits of the customer's social security number. A corporation or partnership may provide a federal Employer Identification Number, or last six digits thereof, and the name and job title of the authorized representative of the corporation or partnership to satisfy the requirements of this subparagraph.

(B) Any telecommunications utility designated in a LOA as the customer's preferred and authorized telecommunications utility ~~must~~shall be the carrier directly setting rates for the customer.

(C) The following LOA form meets the requirements of this subsection. Other versions may be used, but ~~must~~shall comply with all of the requirements of this subsection.

Customer billing name: _____

Customer billing address: _____

Customer street address: _____

City, state, zip code: _____

Customer's month and year of birth, the customer's month and day of birth, mother's maiden name, or the last four digits of the customer's social security number: _____

If applicable, the name of an individual legally authorized to act for the customer:

Relationship to customer: _____

Telephone number of the individual authorized to act for the customer:

Only one telephone company may be designated as my preferred carrier for each type of service for each telephone number.

_____ By initialing here and signing below, I am authorizing (insert name of new telecommunications utility) to become my new telephone service provider for **local** telephone service. I authorize (insert name of new telecommunications utility) to act as my agent to make this change happen, and direct my (current telecommunications utility) to work with the new provider to make the change.

_____ By initialing here and signing below, I am authorizing (insert name of new telecommunications utility) to become my new telephone service provider in place of my (current telecommunications utility) for **local toll** telephone

1 service. I authorize (insert name of new telecommunications utility) to act as
2 my agent to make this change happen, and direct my (current
3 telecommunications utility) to work with the new provider to make the change.
4

5 _____ By initialing here and signing below, I am authorizing (insert name of
6 new telecommunications utility) to become my new telephone service provider
7 in place of my (current telecommunications utility) for **long distance** telephone
8 service. I authorize (insert name of new telecommunications utility) to act as
9 my agent to make this change happen, and direct my (current
10 telecommunications utility) to work with the new provider to make the change.
11

12 I understand that I may be required to pay a one-time charge to switch providers
13 and may consult with the carrier as to whether the charge will apply. If I later
14 wish to return to my current telephone company, I may be required to pay a
15 reconnection charge. I also understand that my new telephone company may
16 have different calling areas, rates, and charges than my current telephone
17 company, and I am willing to be billed accordingly.
18

19 Telephone number(s) to be changed: _____
20

21 Initial here _____ if you are listing additional telephone numbers to be
22 changed.
23

I have read and understand this Letter of Agency. I am at least eighteen years of age and legally authorized to change telephone companies for services to each ~~the~~ telephone number ~~number(s)~~ listed above.

Signed: _____ Date _____

(4) The LOA must ~~shall~~ not require or suggest that a customer take some action ~~in order~~ to retain the customer's current telecommunications utility.

(5) If any portion of an LOA is translated into another language, then all portions of the LOA must be translated into that language. Every LOA must be translated into the same language as promotional materials, oral descriptions or instructions provided with the LOA.

(6) The submitting telecommunications utility must ~~shall~~ submit a change order on behalf of a customer within 60 days after obtaining a written or electronically signed LOA from the customer except LOAs relating to multi-line and/or multi-location business customers that have entered into negotiated agreements with a telecommunications utility to add presubscribed lines to their business locations during the course of a term agreement must ~~shall~~ be valid for the period specified in the term agreement.

(e) **Notification of alleged unauthorized change.**

(1) When a customer informs an executing telecommunications utility of an alleged unauthorized telecommunications utility change, the executing

telecommunications utility ~~must~~shall immediately notify both the authorized and alleged unauthorized telecommunications utility of the incident.

(2) Any telecommunications utility, executing, authorized, or alleged unauthorized, that is informed of an alleged unauthorized telecommunications utility change ~~must~~shall direct the customer to contact the Public Utility Commission of Texas for resolution of the complaint.

(3) The alleged unauthorized telecommunications utility ~~must~~shall remove all unpaid charges pending a determination of whether an unauthorized change occurred.

(4) (No change.)

(5) The alleged unauthorized telecommunications utility ~~must~~shall take all actions within its control to facilitate the customer's prompt return to the original telecommunications utility within three ~~working~~business days of the customer's request.

(6) The alleged unauthorized telecommunications utility ~~must~~shall also be liable to the customer for any charges assessed to change the customer from the authorized telecommunications utility to the alleged unauthorized telecommunications utility in addition to charges assessed for returning the customer to the authorized telecommunications utility.

(f) **Unauthorized changes.**

(1) **Responsibilities of the telecommunications utility that initiated the change.** If a customer's telecommunications utility is changed without verification consistent

with this section, the telecommunications utility that initiated the unauthorized change ~~must~~shall:

(A) take all actions within its control to facilitate the customer's prompt return to the original telecommunications utility within three ~~working~~business days of the customer's request;

(A) take all actions within its control to facilitate the customer's prompt return to the original telecommunications utility within three ~~working~~business days of the customer's request;

(B) pay all charges associated with returning the customer to the original telecommunications utility within five ~~working~~business days of the customer's request;

(C) provide all billing records to the original telecommunications utility related to the unauthorized change of services within ten ~~working~~business days of the customer's request;

(D) pay, within 30 ~~working~~business days of the customer's request, the original telecommunications utility any amount paid to it by the customer that would have been paid to the original telecommunications utility if the unauthorized change had not occurred;

(E) return to the customer within 30 ~~working~~business days of the customer's request:

(i) any amount paid by the customer for charges incurred during the first 30 calendar days after the date of an unauthorized change; and

(ii) any amount paid by the customer after the first 30 calendar days in excess of the charges that would have been charged if the unauthorized change had not occurred;

(F)-(G)(No change.)

(2) **Responsibilities of the original telecommunications utility.** The original telecommunications utility must~~shall~~:

(A) inform the telecommunications utility that initiated the unauthorized change of the amount that would have been charged for identical services if the unauthorized change had not occurred, within ten working~~business~~ days of the receipt of the billing records required under paragraph (1)(C) of this subsection;

(B) where possible, provide to the customer all benefits associated with the service, such as frequent flyer miles, that would have been awarded had the unauthorized change not occurred, upon~~on~~ receiving payment for service provided during the unauthorized change;

(C) maintain a record of customers that experienced an unauthorized change in telecommunications utilities that contains:

(i) (No change.)

(ii) each~~the~~ telephone number~~number(s)~~ affected by the unauthorized change;

(iii)(iv)(No change.)

(D) not bill the customer for any charges incurred during the first 30 calendar days after the unauthorized change, but may bill the customer for unpaid

charges incurred after the first 30 calendar days based on what it would have charged if the unauthorized change had not occurred.

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

(1) Each telecommunications utility must~~shall~~ make available to its customers the notice set out in paragraph (3) of this subsection.

(2) Each notice provided under paragraph (5)(A) of this subsection must~~shall~~ contain the name, address and telephone numbers where a customer can contact the telecommunications utility.

(3) **Customer notice.** The notice must~~shall~~ state:

Selecting a Telephone Company -- Your Rights as a Customer

Telephone companies are prohibited by law from switching you from one telephone service provider to another without your permission, a practice commonly known as “slamming.”

If you are slammed, Texas law requires the telephone company that slammed you to do the following:

1. Pay, within five working~~business~~ days of your request, all charges associated with returning you to your original telephone company.
2. Provide all billing records to your original telephone company within ten working~~business~~ days of your request.

3. Pay, within 30 working days, your original telephone company the amount you would have paid if you had not been slammed.

4. Refund to you within 30 ~~working~~^{business} days any amount you paid for charges during the first 30 days after the slam and any amount more than what you would have paid your original telephone company for charges after the first 30 days following the slam.

Your original telephone company is required to provide you with all the benefits, such as frequent flyer miles, you would have normally received for your telephone use during the period in which you were slammed.

If you have been slammed, you can change your service immediately back to your original provider by calling your authorized telecommunications provider (your original provider) and advising the company that you have been switched from its service without appropriate authorization. You should also report the slam by writing or calling the PUCT Consumer Protection Division ~~Public Utility Commission of Texas~~, 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~~customer@puc.state.tx.us~~. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas at (512) 936-7136.

You can prevent slamming by requesting a preferred telephone company freeze from your current service provider. With a freeze in place, you must give formal consent to “lift” the freeze before your phone service can be changed. A freeze may apply to local toll service, long distance service, or both. The Public Utility Commission of Texas can give you more information about freezes and your rights as a customer.

(4) (No change.)

(5) **Language, distribution and timing of notice.**

(A) Telecommunications utilities ~~must~~shall send the notice to new customers at the time service is initiated, and upon customer request.

(B) Each telecommunications utility ~~must~~shall print the notice in the white pages of its telephone directories, beginning with any directories published 30 calendar days after the effective date of this section and thereafter. The notice that appears in the directory is not required to list the information contained in paragraph (2) of this subsection.

(C) The notice ~~must~~shall be in plain~~both~~ English and Spanish as necessary to adequately inform the customer. The commission may exempt a telecommunications utility from the Spanish requirement if the telecommunications utility shows that 10% or fewer of its customers are exclusively Spanish-speaking, and that the telecommunications utility will notify all customers through a statement in plain~~both~~ English and Spanish that the information is available in Spanish by mail from the telecommunications utility or at the utility’s offices.

(h) **Compliance and enforcement.**

(1) **Records of customer verifications and unauthorized changes.**

(A) The submitting telecommunications utility must maintain records of all change orders, including verifications of customer authorizations, for a period of 24 months and ~~must~~shall provide such records to the customer, if the customer challenges the change.

(B) A telecommunications utility ~~must~~shall provide a copy of records maintained under the requirements of subsections (c), (d), and (f)(2)(C) of this section to the commission staff 21 calendar days from the date the records were requested by commission staff ~~on or before the 21st calendar day of staff's request.~~

(C) The proof of authorization and verification of authorization as required from the alleged unauthorized telecommunications utility in accordance with ~~pursuant to~~ subparagraph (B) of this paragraph and paragraph (2)(A) of subsection (l) must establish a valid authorized telecommunications utility change as defined by subsections (c) and (d) of this section. Failure by the alleged unauthorized telecommunications utility to timely submit a response that addresses the complainant's assertions, relating to an unauthorized change, within the time specified in subparagraph (B) of this paragraph or paragraph (2) of subsection (l) establishes a violation of this section.

1 (2) **Administrative penalties.** If the commission finds that a telecommunications
2 utility is in violation of this section, the commission ~~will must~~ shall order the utility
3 to take corrective action as necessary, and the utility may be subject to
4 administrative penalties in accordance with~~pursuant to~~ the Public Utility
5 Regulatory Act (PURA) §15.023 and §15.024.

6 (3) **Evidence.** Evidence supplied by the customer that meets the standards set out in
7 Texas Government Code §2001.081, including~~, but not limited to,~~ one or more
8 affidavits from a customer challenging the change, is admissible in a proceeding to
9 enforce the provisions of this section.

10 (4) **Certificate revocation.** The commission may suspend, restrict, deny, or revoke
11 the registration or certificate, including an amended certificate, of a
12 telecommunications utility, ~~thereby~~ denying the telecommunications utility the
13 right to provide service in this state, in accordance with~~pursuant to~~ the provisions
14 of either PURA §17.052 or PURA §55.306.

15 (5) **Coordination with the office of the attorney general.** The commission will
16 ~~must~~ shall coordinate its enforcement efforts regarding the prosecution of
17 fraudulent, unfair, misleading, deceptive, and anticompetitive business practices
18 with the Office of the Attorney General ~~in order~~ to ensure consistent treatment of
19 specific alleged violations.

20
21 (i) **Notice of identity of a customer's telecommunications utility.** Any bill for
22 telecommunications services must contain the following information in clear~~easily~~-read,
23 bold type in each bill sent to a customer. Where charges for multiple lines are included in

a single bill, this information must appear on the first page of the bill if possible, or be displayed prominently elsewhere in the bill:

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

(4) A statement that customers who believe they have been slammed may contact the Public Utility Commission of Texas, 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~~customer@puc.state.tx.us.~~ 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.~~ This statement may be combined with the statement requirements of §26.32(g)(4) of this title if all of the information required by each is in the combined statement.

(j) **Preferred telecommunications utility freezes.**

(1) **Purpose.** A preferred telecommunications utility freeze (“freeze”) prevents a change in a customer’s preferred telecommunications utility selection unless the customer consents~~gives consent~~ to the local exchange company that implemented the freeze.

(2) **Nondiscrimination.** All local exchange companies that offer freezes must~~shall~~ offer freezes on a nondiscriminatory basis to all customers regardless of the customer’s telecommunications utility selection except for local telephone service.

(3) **Type of service.** Customer information on freezes must~~shall~~ clearly distinguish between intraLATA and interLATA telecommunications services. The local exchange company offering a freeze must~~shall~~ obtain separate authorization for each service for which a freeze is requested.

(4) **Freeze information.** All information provided by a telecommunications utility about freezes ~~must~~shall have the sole purpose of educating customers and providing information in a neutral way to allow the customer to make an informed decision, and ~~must~~shall not market or induce the customer to request a freeze. The freeze information provided to customers ~~must~~shall include:

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

(5) **Freeze verification.** A local exchange company ~~must~~shall not implement a freeze unless the customer's request is verified using one of the following procedures:

(A) (No change.)

(B) An electronic authorization placed from the telephone number on which a freeze is to be imposed. The electronic authorization ~~must~~shall confirm appropriate verification data including, ~~but not limited to,~~ the customer's month and year of birth, the customer's month and day of birth, mother's maiden name, or the last four digits of the customer's social security number and the information required in paragraph (6)(G) of this subsection. A corporation or partnership may provide a federal Employer Identification Number, or last six digits thereof, and the name and job title of the authorized representative of the corporation or partnership to satisfy the requirements of this subparagraph. The local exchange company ~~must~~shall establish one or more toll-free telephone numbers exclusively for this purpose. Calls to the ~~number~~number(s) will connect the customer to a voice response unit or similar mechanism that records the information including the originating ANI.

(C) An appropriately qualified independent third party obtains the customer's oral authorization to submit the freeze that includes and confirms appropriate verification data as required by subparagraph (B) of this paragraph. This ~~must~~shall include clear and conspicuous confirmation that the customer authorized a freeze. The independent third party ~~must~~shall:

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

(D) (No change.)

(6) **Written authorization.** A written freeze authorization ~~must~~shall:

(A)-(F)(No change.)

(G) contain clear and unambiguous language that confirms:

(i) the customer's name, address, and each telephone ~~number~~number(s) to be covered by the freeze;

(ii) the decision to impose a freeze on each~~the~~ telephone ~~number~~number(s) and the particular service with a separate statement for each service to be frozen;

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

(7) **Lifting freezes.** A local exchange company that executes a freeze request ~~must~~shall allow customers to lift a freeze by:

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

(8) **No customer charge.** The customer ~~must~~shall not be charged for imposing or lifting a freeze.

(9) **Local service freeze prohibition.** A local exchange company ~~must~~shall not impose a freeze on local telephone service.

- 1 (10) **Marketing prohibition.** A local exchange company ~~must~~shall not initiate any
2 marketing of its services during the process of implementing or lifting a freeze.
- 3 (11) **Freeze records retention.** A local exchange company ~~must~~shall maintain records
4 of all freezes and verifications for a period of 24 months and ~~must~~shall provide
5 these records to customers and to the commission staff upon request.
- 6 (12) **Suggested freeze information language.** A telecommunications
7 utility~~Telecommunications utilities~~ that informs a customer~~inform customers~~ about
8 freezes may use the following language. Other versions may be used, but ~~must~~shall
9 comply with all of the requirements of paragraph (4) of this subsection.
- 10 (13) **Suggested freeze authorization form.** The following form is recommended for
11 written authorization from a customer requesting a freeze. Other versions may be
12 used, but ~~must~~shall comply with all of the requirements of paragraph (6) of this
13 subsection.

Freeze Authorization Form

17 Customer billing name: _____

18 Customer service address: _____

19 City, state, zip code: _____

20 Customer mailing address: _____

21 City, state, zip code: _____

22 Telephone number (1): _____

23 Telephone number (2): _____

Telephone number (3): _____

Customer's month and year of birth, the customer's month and day of birth,
mother's maiden name, or last four digits of the customer's social security number:

The purpose of a freeze is to prevent a change in your telephone company without your consent. A freeze is a protection against "slamming" (switching your telephone company without your permission). You can impose a freeze on either your local toll or long distance service provider, or both. If you want a freeze, you must contact (name of local telephone company) at (phone number) to lift the freeze before you can change your service provider. You may add or lift a freeze at any time at no charge.

Please complete the following for each service for which you are requesting a freeze:

I authorize a freeze for the telephone number(s) listed above for **local toll** service.

Current preferred local toll company: _____

Customer's signature: _____

Date: _____

Customer's printed name: _____

I authorize a freeze for the telephone number(s) listed above for **long distance** service.

Current preferred long distance company: _____

Customer's signature: _____

Date: _____

Customer's printed name: _____

Mail this form to:

(Name of local telephone company)

(Address)

Or FAX to: (FAX number)

- (14) **Suggested freeze lift form.** The following form is recommended for written authorization to lift a freeze. Other versions may be used, but must~~shall~~ comply with all of the requirements of paragraph (7) of this subsection.

Freeze Lift Form

Customer billing name: _____

Customer service address: _____

City, state, zip code: _____

Customer mailing address: _____

City, state, zip code: _____

Telephone number (1): _____

Telephone number (2): _____

Telephone number (3): _____

Customer's month and year of birth, the customer's month and day of birth,
mother's maiden name, or last four digits of the customer's social security number:

Please complete the following for each service that you wish to lift a freeze:

I wish to remove a freeze for the telephone number(s) listed above for **local toll**
service.

Current preferred local toll company: _____

Customer's signature: _____

Date: _____

Customer's printed name: _____

I wish to remove a freeze for the telephone number(s) listed above for **long distance**
service.

Current preferred long distance company: _____

Customer's signature: _____

Date: _____

Customer's printed name: _____

Mail this form to:

(Name of local telephone company)

(Address)

Or FAX to: (FAX number)

(k) **Transferring customers from one telecommunications utility to another.**

(1) A telecommunications utility may acquire, through a sale or transfer, either part or all of another telecommunications utility's customer base without obtaining each customer's authorization and verification in accordance with subsection (c)(1) of this section, provided that the acquiring utility complies with this section. Any telecommunications utility that will acquire customers from another telecommunications utility that will no longer provide service due to acquisition, merger, bankruptcy or any other reason, ~~must~~shall provide notice to ~~each~~every affected customer. The notice ~~must~~shall be in a billing insert or separate mailing at least 30 calendar days prior to the transfer of any customer. If legal or regulatory constraints prevent sending the notice at least 30 calendar days prior to the transfer, the notice ~~must~~shall be sent promptly after all legal and regulatory conditions are met. The notice ~~must~~shall:

(A)-(J)(No change.)

(2) The acquiring telecommunications utility ~~must~~shall provide the commission ~~Customer Protection Division (CPD)~~ with a copy of the notice when it is sent to customers.

(l) **Complaints to the commission.** A customer may file a complaint with the commission's CPD against a telecommunications utility for any reasons related to the provisions of this section.

(1) (No change.)

(2) **Telecommunications utility's response to complaint.** After review of a customer's complaint, CPD ~~must~~shall forward the complaint to the telecommunications utility. The telecommunications utility ~~must~~shall respond to CPD within 21 calendar days after CPD forwards the complaint. The telecommunications utility's response ~~must~~shall include the following:

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

(3) **CPD investigation.** CPD ~~must~~shall review all of the information related to the complaint and make a determination on whether or not the telecommunications utility complied with the requirements of this section. CPD ~~must~~shall inform the complainant and the alleged unauthorized telecommunications utility of the results of the investigation and identify any additional corrective actions that may be required. CPD ~~must~~shall also inform, if known, the authorized telecommunications utility if there was an unauthorized change in service.

(m) **Additional requirements for changes involving certain telecommunications utilities.**

(1) **Definitions.** The following words and terms, when used in this subsection, ~~shall~~ have the following meanings unless the context clearly indicates otherwise.

(A)-(G)(No change.)

(2) **Contents and delivery of notice required by paragraphs (3) and (4) of this subsection.**

(A) Notice ~~must~~shall contain at least:

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

(B) If an LSP does not otherwise have the appropriate contact information for notifying a PIC, then the LSP's notification to the PIC ~~must~~shall be deemed complete upon delivery of the notice to the PIC's address, facsimile number or e-mail address listed in the appropriate utility directory~~Utility Directory~~ maintained by the commission.

(3) **Notification requirements for change in PIC only.** The LSP ~~must~~shall notify the old PIC and the new PIC of the PIC change within five working~~business~~ days of the change execution.

(A) The new PIC ~~must~~shall initiate billing the customer for presubscribed services within five working~~business~~ days after receipt of such notice.

(B) The old PIC ~~must~~shall discontinue billing the customer for presubscribed services within five working~~business~~ days after receipt of such notice.

(4) **Notification requirements for change in LSP.**

(A) Requirement of the new LSP to notify the old LSP. Within five working~~business~~ days of the change execution, the new LSP ~~must~~shall notify the old LSP of the change in the customer's LSP.

(B) Requirement of the new LSP to notify the new PIC. Within five working~~business~~ days of the change execution, the new LSP ~~must~~shall

1 notify the new PIC of the customer's selection of such PIC as the customer's
2 PIC.

3 (C) Requirement of the old LSP to notify the old PIC. Within five
4 ~~workingbusiness~~ days of the old LSP's receipt of notice in accordance
5 ~~withpursuant~~ to subparagraph (A) of this paragraph, the old LSP ~~mustshall~~
6 notify the old PIC that the old LSP is no longer the customer's LSP.

7 (5) **Requirements of the new PIC to initiate billing customer.** If the new PIC
8 receives notice in accordance withpursuant to paragraph (4)(B) of this subsection,
9 within five ~~workingbusiness~~ days after receipt of such notice, the new PIC
10 ~~mustshall~~ initiate billing the customer for presubscribed services.

11 (6) **Requirements of the old PIC to discontinue billing customer.** If the old PIC
12 receives notice in accordance withpursuant to paragraph (4)(C) of this subsection
13 that the old LSP is no longer the customer's LSP, the old PIC ~~mustshall~~ discontinue
14 billing the customer for presubscribed services within seven ~~workingbusiness~~ days
15 after receipt of such notice, unless the new LSP notifies the old PIC that it is the
16 new PIC in accordance withpursuant to paragraph (4)(B) of this subsection.

1 **§26.142. Integrated Services Digital Network (ISDN). (REPEALED)**

2

1 **§26.171. Small Incumbent Local Exchange Company Regulatory Flexibility.**

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

4
5 (c) **Filing.** By following procedures outlined in this section, a small ILEC may offer
6 extended local calling service, a packaged service, a promotional service, or a new service
7 on an optional basis or make a minor change in its rates or tariffs.

8 (1) **Notice.** At least ~~ten~~¹⁰ calendar days before the effective date of the proposed
9 change, the small ILEC ~~must~~^{shall} file ~~six copies of a commission notice~~ with the
10 ~~commission and~~ commission's Filing Clerk and ~~shall serve a copy upon~~ the Office
11 of Public Utility Counsel. Such notice ~~must~~^{shall} include:

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

13 (K) information required by §26.121 of this title (relating to Privacy Issues);
14 and

15 (L) (No change.)

16 (2) **Response to the commission notice.** No later than ten calendar days after the
17 small ILEC files the commission notice, the presiding officer assigned to the project
18 ~~will~~^{shall} notify the small ILEC of any deficiencies in the commission notice,
19 whether the notice to the customers is approved, and whether a waiver request, if
20 any, is granted.

21
22 (d) **Notice.** A small ILEC satisfies the notice requirements in paragraphs (1)-(4) of this
23 subsection by completing notice to the affected customers no later than 10 days before

the proposed effective date of the tariff sheets. If notice is not completed as required, the proposed effective date ~~will~~shall be postponed for as many days as completion of notice is delayed.

(1) **Extended local calling service, packaged service, promotional service or new service.** For extended local calling service, a packaged service, promotional service or a new service, notice ~~must~~shall be provided to each affected customer.

(2) (No change.)

(3) **Contents of notice.** Each notice must include:

(A) a description of ~~each service~~the service(s) affected by the proposed change;

(B)-(F) (No change.)

(4) **Proof of customer notice.** No later than seven calendar days following completion of notice, the small ILEC or a representative of the small ILEC ~~must~~shall file one or more affidavits establishing proof of notice to customers as required by this subsection.

(e) **New service availability.** If the commission notice concerns a new service, as defined in §26.5 of this title, that will not be offered system-wide, the small ILEC ~~must~~shall explain separately for each telephone exchange why the new service cannot be offered system-wide.

(f) **Rates and revenues.** The following requirements apply to a commission notice filed under this section:

(1) (No change.)

(2) **Limitation on rate increases.** Except for good cause shown, a rate ~~will~~shall not be increased more than once in any 12-month period.

(3) (No change.)

(g) **Review.**

(1) **Effective date.** A proposed tariff filed under this section ~~is~~shall be effective on the date proposed by the small ILEC, unless the effective date is suspended.

(2) **Suspension of tariff.** The proposed tariff may be suspended up to 150 calendar days to provide the commission an opportunity to review the commission notice. Additionally the presiding officer ~~will~~shall suspend the tariff if within 30 calendar days following the completion of the customer notice:

(A) the commission receives a complaint relating to the proposed change signed by the lesser of 5.0% or 1,500 of the affected local service customers to which the proposed change applies. Five percent ~~will~~shall be calculated based upon the total number of affected customers of record as of the calendar month preceding receipt of the complaint; or

(B)-(E)(No change.)

(h) **Docketing.** Following suspension of the effective date of the proposed tariff, the presiding officer ~~will~~shall provide a small ILEC a reasonable opportunity to modify its commission notice to address conditions that exist, if any, under subsection (g)(2) of this section. If conditions under subsection (g)(2) of this section are not resolved during the suspension period, the presiding officer may docket the project. If the project is docketed, the effective date of the proposed tariff ~~will~~shall be automatically suspended and the

1 commission ~~will~~shall review the commission notice in accordance with the commission's
2 procedural rules applicable to docketed cases.

3

**§26.175. Reclassification of Telecommunications Services for Electing Incumbent
 Local Exchange Companies (ILECs).**

(a) **Purpose.** The provisions of this section:

(1) establish the minimum criteria and standards for reclassifying a basic network service as a discretionary service or competitive service; or a discretionary service as a competitive service, in accordance with~~pursuant to~~ the Public Utility Regulatory Act (PURA) §58.024; and

(2) (No change.)

(b) (No change.)

(c) **General standards for reclassification of a service.** The following conditions must be satisfied ~~in order~~ to reclassify a service.

(1) **Prerequisite for reclassification of a service.** The commission may ~~not~~ reclassify a service only if~~until~~ each competitive safeguard prescribed by PURA Chapter 60, Subchapters B through H, is fully implemented.

(2) (No change.)

(3) **Identification of services to be reclassified.** An electing ILEC must identify each service which it is seeking to reclassify and must specify, for each service, whether the service is for residential lines, business lines, or both.

(4) (No change.)

(5) **Rate changes.** Rate changes ~~must~~shall be contemplated by the commission, in a separate proceeding, after reclassification has occurred.

(d) **Standards for reclassification of a basic network service as a discretionary service.** In addition to meeting the requirements ~~of~~in subsection (c), the following conditions must be satisfied ~~in order to~~ reclassify a basic network service as a discretionary service:

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

(e) **Standards for reclassification of a basic network service or discretionary service as a competitive service.** In addition to meeting the requirements ~~of~~in subsection (c), the following conditions must be satisfied ~~in order to~~ reclassify a basic network service as a competitive service, or to reclassify a discretionary service as a competitive service:

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

(5) The electing ILEC does not have market power sufficient to control the price of the service in the reclassification area, in a manner that is adverse to the public interest, ~~the price of the service in the reclassification area.~~

(f) **Requirements for notice and contents of the application in compliance with this section.**

(1) **Notice of Application.** The electing ILEC ~~must~~shall provide direct notice to all certificate of convenience and necessity, service provider certificate of operating authority, and certificate of operating authority~~Certificate of Convenience and Necessity, Service Provider Certificate of Operating Authority and Certificate of Operating Authority~~ holders offering service in the reclassification area and

issuedirect notice to each customer of the ILEC~~all the ILEC's customers~~ in the reclassification area. The notice must~~shall~~ include a description of the requested reclassification, the service, the proposed rates, the reclassification area, other terms of the service, the types of customers likely to be affected if the application is approved, the proposed effective date for the application, and the following language: "Persons who wish to comment on this application should notify the commission by (specified date, ten days before the proposed effective date), and (any other item required by the presiding officer). Requests for further information should be mailed to the Public Utility Commission of Texas, P. O. Box 13326, Austin, Texas 78711-3326, or you may call the PUCT~~Public Utility Commission's Office of Consumer~~Customer Protection Division at (512) 936-7120 or toll free 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) 9367136.~~"

- (2) **Contents of application for each electing ILEC seeking a service reclassification.** In addition to the commission's filing requirements, one copy of the application must~~shall~~ be delivered to commission staff~~the Office of Regulatory Affairs~~ and one copy must~~shall~~ be delivered to the Office of Public Utility Counsel (OPUC). The application must~~shall~~ contain the following:
- (A) (No change.)
 - (B) For each exchange in the reclassification area, a description of the reclassification sought, each service~~the service(s)~~ and the rates, terms, and conditions under which each service~~the service(s)~~ is currently provided, and

how the proposed reclassification of ~~each service~~~~the service(s)~~ is just and reasonable and is not unreasonably preferential, prejudicial,—or discriminatory,—or predatory or anti-competitive;

(C)-(H) (No change.)

(g) **Commission processing of application.**

(1) **Administrative review.** An application considered under this section is eligible for administrative review~~may be reviewed administratively~~ unless the electing ILEC requests the application be docketed or the presiding officer, for good cause, determines at any point during the review that the application should be docketed.

(A) The operation of the proposed rate schedule may be suspended for 35 days after the effective date of the reclassification~~application~~. The effective date must~~shall~~ be no earlier than 30 days after the filing date of the application or 30 days after public notice is completed, whichever is later.

(B) The application must~~shall~~ be reviewed~~examined~~ for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant must~~shall~~ be notified within ten working days of the filing date of the specific deficiency in its application, and the earliest possible effective date of the reclassification ~~will~~~~application shall~~ be no less than 30 days after the filing of a sufficient application with substantially complete information as required by the presiding officer. Thereafter, any ~~time~~ ~~deadlines~~ will~~shall~~ be determined 30 days from the ~~30th~~ day after the

filing of the sufficient application and information or from the effective date if the presiding officer extends that date.

(C) While the application is under administrative review~~being administratively reviewed~~, the commission staff and the staff of OPUC~~the Office of Public Utility Counsel~~ may submit requests for information to the electing ILEC. A copy~~Six copies~~ of all answers to such requests for information must~~shall~~ be filed with central records and ~~one copy must~~ shall be provided to OPUC~~the Office of Public Utility Counsel~~ within ten days after receipt of the request by the electing ILEC.

(D) No later than 20 days after the filing date of the sufficient application, interested persons may provide to the commission staff written comments or recommendations concerning the application. Commission~~The~~ ~~commission~~ staff will~~shall~~ and OPUC~~the Office of Public Utility Counsel~~ may file with the presiding officer written comments or recommendations concerning the application.

(E) No later than 35 days after the effective date of the reclassification~~application~~, the presiding officer will~~shall~~ issue an order approving, denying, or docketing the electing ILEC's application.

(2) **Approval or denial of application.** The application will~~shall~~ be approved by the presiding officer if the proposed reclassification complies with each requirement of this section. If, based on the administrative review, the presiding officer determines that one or more of the requirements not waived have not been met, the presiding officer must~~shall~~ docket the application.

1 (3) **Standards for docketing.** The application may be docketed in accordance
2 ~~with pursuant to the commission's Procedural Rules §22.33(b) of this title (relating~~
3 to Tariff Filings).

4 (4) **Review of the application after docketing.** If the application is docketed, the
5 deadline is automatically suspended to ~~a date~~ 120 days after the applicant has filed
6 all of its direct testimony and exhibits, or 155 days after the effective date of the
7 reclassification, whichever is later. Affected persons may move to intervene in the
8 docket, and the presiding officer may schedule a hearing on the merits. The
9 application ~~must~~shall be processed in accordance with the commission's rules
10 applicable to docketed cases.

1 §26.207. **Form and Filing of Tariffs**

2

3 (a) **Application.** Unless the context clearly indicates otherwise, in this section the term

4 “utility” ~~or “public utility” refers to a dominant carrier insofar as it relates to~~

5 ~~telecommunications utilities, shall refer to dominant carriers.~~

6

7 (b) **Purpose.** ~~This~~~~The purpose of this~~ section ~~establishes to establish and~~ standards for the

8 form, filing and review of ~~a dominant certificated telecommunications utility’s (DCTU’s)~~

9 ~~tariff~~~~dominant-certificated telecommunications utilities’ (DCTUs) tariffs.~~

10

11 (c) **Effective tariff.** ~~A utility is prohibited from directly or indirectly demanding, charging, or~~

12 ~~collecting~~ ~~No utility shall directly or indirectly demand, charge, or collect~~ any rate or

13 charge, or ~~imposing~~~~impose~~ any classifications, practices, rules, or regulations different

14 from those prescribed in its ~~currently~~ effective tariff filed with ~~and approved by~~ the

15 commission.

16

17 (d) **Tariff required.**~~Requirements as to size, form, identification and filing of tariffs. Every~~

18 ~~public utility shall file with the commission filing clerk five copies of its tariff containing~~

19 ~~schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its utility~~

20 ~~service when it applies for a certificate of convenience and necessity to operate as a public~~

21 ~~utility.~~

22 (1) A public utility, or an affiliate of the public utility or a trade association on behalf

23 of the public utility, must file with the commission a tariff showing each rate that

1 is subject to the commission's jurisdiction and is in effect for a utility service,
2 product, or commodity offered by the utility. A current or proposed tariff must:
3 (A) include each rule that relates to or affects a rate of the utility, or a utility
4 service, product, or commodity furnished by the utility;
5 (B+) be filed prior to or concurrently with an application for certification,
6 including a certificate amendment, under §26.111 (relating to Certificate of
7 Operating Authority (COA) and Service Provider Certificate of Operating
8 Authority (SPCOA) Criteria); and
9 (C) as applicable, comply with the requirements of this section and §26.208 of
10 this title (relating to General Tariff Procedures), §26.209 of this title
11 (relating to New and Experimental Services), or §26.211 of this title
12 (relating to Rate-Setting Flexibility for Services Subject to Significant
13 Competitive Challenges).

14 (3) A public utility must~~it shall~~ also file ~~five copies of~~ each subsequent tariff revision
15 with the commission. Each revision ~~must~~~~shall~~ be accompanied by a cover page
16 which contains a list of pages being revised, a statement describing each change,
17 the effect of the change~~its effect~~ if it ~~revises~~~~is a change in~~ an existing rate, and a
18 statement describing the~~as to~~ impact on rates of the change for each~~by~~ customer
19 class, if any. If a proposed tariff revision constitutes an increase in existing rates
20 of a particular customer class ~~or classes~~, then the commission may require that
21 notice be given.

22 (4) A telecommunications utility, upon the issuance of a commission order determining
23 that the telecommunications utility is a dominant carrier, must file a tariff

1 complying with the requirements of this subsection. Such a tariff must be filed
2 within the time specified in the commission order, or within 60 days in the absence
3 of such a specification.

4
5 (e) **Filing of public utility tariff by affiliate or trade association.** An affiliate of a public
6 utility or trade association may file a tariff or tariff revision under this section or other
7 applicable law, on behalf of a public utility.

8 (1) For each filing, the public utility must authorize the affiliate of the nondominant
9 carrier or trade association, via written affidavit filed with the commission, to file
10 such information on its behalf.

11 (2) The authorization specified by paragraph (1) of this subsection may be included in
12 the filing by the affiliate of the public utility or trade association.

13 (3) The filing by affiliate of the public utility or trade association must comply with the
14 requirements of this section and other applicable law.

15
16 (f) **Tariff filing requirements.**

17 (12) ~~All tariffs shall be in loose-leaf form of size 8 1/2 inches by 11 inches and shall be~~
18 ~~plainly printed or reproduced on paper of good quality.~~ The front page of the tariff
19 ~~must include~~shall contain the name of the utility and location of its principal office
20 and the type of service rendered ~~(telephone, electric, etc.).~~

21 (23) Each rate schedule must clearly state the territory, city, county, or exchange where
22 the rate schedule applieswherein said schedule is applicable.

(34) Tariff sheets ~~must~~^{are to} be numbered consecutively per schedule. Each sheet ~~must~~^{shall} show an effective date, a revision number, section number, sheet number, name of the utility, the name of the tariff, and title of the section in a consistent manner. Sheets issued under new numbers ~~must~~^{are to} be designated as original sheets. Sheets being revised ~~must~~^{should} show the number of the revision, and the sheet numbers shall be the same.

~~(5) Any telecommunications utility, after a declaration by the commission that it is a dominant carrier, shall file tariffs complying with the above requirements. These tariffs shall be filed within the time specified in the commission order finding the telecommunications utility a dominant carrier, or within 60 days in the absence of such a specification.~~

(ge) **Composition of tariffs.** ~~A~~^{The} tariff ~~must~~^{shall} contain sections setting forth:

- (1) a table of contents;
- (2) a preliminary statement containing a brief description of the utility's operations;
- (3) a list of the cities, exchanges, and counties in which service is provided;
- (4) the rate schedules; and
- (5) the service rules and regulations, including forms of the service agreements.

(hf) **Tariff filings in response to commission orders.** ~~A tariff filed~~^{Tariff filings made} in response to ~~a commission an order issued by the commission~~^{must}~~shall~~ include a transmittal letter ~~affirming~~^{stating} that the ~~tariff is~~^{tariffs attached} are in compliance with the order, ~~providing~~^{giving} the ~~control~~^{docket} number, date of the order, a list of tariff sheets

1 filed, and any other necessary information. The tariff sheets ~~must~~shall comply with all
2 other rules ~~of this title in this chapter~~ and ~~must~~shall include only the changes ordered. The
3 effective date ~~and/or~~ wording of the tariffs ~~must~~shall comply with the provisions of the
4 order.

5
6 (ig) **Symbols for changes.** Each proposed tariff sheet ~~must~~shall contain notations in the right-
7 hand margin indicating each change made ~~on these sheets~~. Notations to be used are: (C)
8 to denote a change in regulations; (D) to denote discontinued rates or regulations; (E) to
9 denote the correction of an error made during a revision, such as ~~(the revision which~~
10 ~~resulted in the error must be one connected to some material contained in the tariff prior to~~
11 ~~the revision)~~; (I) to denote a rate increase; (N) to denote a new rate or regulation; (R) to
12 denote a rate reduction; and (T) to denote a change in text, but no change in rate or
13 regulation. ~~Each~~In addition to symbols for changes, each changed provision in the tariff
14 ~~must~~shall contain a vertical line in the right-hand margin of the page which clearly shows
15 the exact number of lines being changed.

16
17 (jh) **Availability of tariffs.** Each utility ~~must~~shall make available to the public electronically
18 and at each of its business offices or designated sales offices within Texas, each tariff that
19 is ~~all of its tariffs~~ currently on file with the commission, ~~and~~ The utility must assist its
20 ~~employees shall lend assistance to persons seeking information on its tariffs and permit~~
21 such persons the ~~afford inquirers an~~ opportunity to examine any tariff upon request. The
22 utility must ~~also shall~~ provide copies of ~~any portion of each of~~ its tariffs at a reasonable
23 cost.

1
2 ~~(i) **Effective date of tariff change.** No jurisdictional tariff change may take effect prior to 35~~
3 ~~days after filing without commission approval. The requested date will be assumed to be~~
4 ~~35 days after filing unless a different date is requested in the application. The commission~~
5 ~~may suspend the effective date of the tariff change for 120 days after the requested effective~~
6 ~~date and may extend that suspension another 30 days if required for final determination.~~
7 ~~In the case of an actual hearing on the merits of a case that exceeds 15 days, the suspension~~
8 ~~date is extended two days for each one day of actual hearing in excess of 15 actual hearing~~
9 ~~days.~~

1 **§26.208. General Tariff Procedures. [REPEALED]**

2 **§26.208. General Tariff Procedures.**

3 (a) **Application.** This section establishes the process for commission review of a dominant
4 certificated telecommunications utility (DCTU) tariff and tariff amendments. A DCTU
5 must meet the requirements of this section to file a new tariff or amend an existing tariff to
6 which this section applies, including changes to a rate or service, the types of service
7 provided, jurisdiction or service area, or for the withdrawal of a service. For purposes of
8 this section, the term “trade association” means a cooperative and voluntarily joined
9 association of business or professional competitors in this state designed to assist its
10 members and its industry or profession in dealing with mutual business or professional
11 problems and in promoting their common interest.

12 (1) This section applies to a DCTU and to an affiliate of a DCTU or a trade association
13 that elects to file or amend a tariff on a DCTU’s behalf, and to each tariff filed by
14 those entities in accordance with §26.207 of this title (relating to Form and Filing
15 of Tariffs) and the following provisions, as applicable:

16 (A) section 26.209 of this title (relating to New and Experimental Services) or
17 §26.210 of this title (relating to Promotional Rates for Local Exchange
18 Company Services), if determined to be necessary by the presiding officer;

19 or

20 (B) section 26.211 of this title (relating to Rate Setting Flexibility for Services
21 Subject to Significant Competitive Challenges).

22 (2) This section does not apply to a person, or a tariff submitted by a person, to which
23 §26.89 of this title (relating to Nondominant Carriers’ Obligations Regarding

Information on Rates and Services) or §26.171 of this title (relating to Small Incumbent Local Exchange Company Regulatory Flexibility) applies.

(3) For purposes of this section, “major rate change” means an increase in rates that would increase the aggregate revenues of an applicant more than \$100,000 or two and a half percent, whichever is greater. The term does not include an increase in rates approved by the commission, or otherwise ordered by the commission after hearings are held with public notice.

(b) General tariff requirements.

(1) New DCTU tariffs. An applicant must file a new DCTU tariff prior to or concurrently with an application for certification under §26.111 of this title (relating to Certificate of Operating Authority (COA) and Service Provider Certificate of Operating Authority (SPCOA) Criteria)) and must meet the requirements of subparagraphs (2)(A) and (B) of this section.

(2) DCTU tariff amendments involving a rate change. For a tariff amendment involving a rate change, including a major rate change, an applicant must meet the following requirements prior to amending its tariff.

(A) File an application with the commission at least 35 days before the effective date of the proposed change to the DCTU’s tariff.

(B) Provide notice to affected persons, including each municipality and customer affected by the change, in the manner prescribed by subsection (c) of this section, or as otherwise required by the presiding officer; and

(C) If applicable, publish notice of the DCTU's intent to change rates in accordance with PURA §53.103, as provided under subsections (c)(1)(C)(i) and (ii) of this section. Notice under this subparagraph is waived if the rate change only involves a rate reduction.

(3) Other DCTU tariff amendments. For a tariff amendment that does not involve a rate change under paragraph (1) of this subsection, a DCTU must meet the following requirements prior to amending its tariff:

(A) File an application with the commission at least 35 days before the effective date of the proposed change to the DCTU's tariff; and

(B) Provide notice to affected persons, including each municipality and customer affected by the change, in the manner prescribed by subsection (c) of this section or as otherwise required by the presiding officer.

(c) Public notice. An application must include plans to provide public notice of the tariff filing.

(1) General requirements for public notice.

(A) Prior to the issuance of notice, an applicant may request, or the presiding officer may require, the contents of the notice to be reviewed and approved by the presiding officer.

(B) Notice must be written in plain language and must contain sufficient detail to provide each affected person, including each affected municipality, adequate notice of the filing.

1 (C) Notice may be provided electronically unless otherwise required by the
2 presiding officer or, if the application involves a rate increase, in accordance
3 with PURA §53.103, which requires the applicant to:

4 (i) publish, in a conspicuous form and place, notice to the public of the
5 proposed change once each week for four successive weeks before
6 the effective date of the proposed change in a newspaper having
7 general circulation in each county containing territory affected by
8 the proposed change; and

9 (ii) mail notice of the proposed change to any other affected person as
10 required by the commission's rules.

11 (D) The presiding officer may require notice to be provided to the public in
12 addition to that proposed by the DCTU.

13 (2) **Content of public notice.** Public notice of the application must include at a
14 minimum:

15 (A) a description of each service or proposed service and each applicable rate;

16 (B) the proposed effective date of the service or, if the service is promotional or
17 experimental, the time period during which the promotional rates are
18 proposed to be in effect;

19 (C) each customer class likely to be affected if the application is approved

20 (D) the probable effect on the DCTU's revenues if the service is approved; and

21 (E) the following language: "Persons with questions or who want more
22 information on this application may contact (DCTU name) at (DCTU
23 address) or call (DCTU toll-free telephone number) during normal business

hours. A complete copy of the application is available for inspection at the address listed above. The commission has assigned Control Number (provided by DCTU) to this application, located at (hyperlink to application). Persons who wish to formally participate in the commission's proceedings concerning this application, or who wish to express their comments concerning this application should contact the Public Utility Commission of Texas, Office of Customer Protection, PO Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission's Office of Consumer Protection at (512) 936-7120 or, toll free, at (888) 782-8477. Hearing- and speech-impaired individuals may contact the commission through Relay Texas at (800) 735-2989. Requests to participate in the proceedings and comments should reach the commission no later than (date, 20 days after the application was filed)."

(d) **Proof of notice.** An application must include a statement indicating the date public notice was completed in accordance with subsection (c) of this section and a copy of the issued notice.

(e) **Effective date of tariff amendment.**

(1) **General standard.**

(A) The effective date of an applicant's tariff must be no earlier than 35 days after the date a sufficient application is approved by the presiding officer.

(B) On the presiding officer's own motion or at the request of the applicant, an alternative effective date may be established unless a specific effective date is required under this section or other law.

(2) **Early effective date.** Upon a showing of good cause by the applicant, the presiding officer may approve a sufficient application, other than an application involving a major rate change, to take effect prior to the 35 day period prescribed by paragraph (1) of this section.

(A) The presiding officer may establish additional conditions, such as notice, that an applicant must meet prior to granting an early effective date. Any additional conditions prescribed by the presiding officer are subject to suspension of the effective date under paragraph (4) of this section.

(B) Upon approval of an early effective date by the presiding officer, the applicant must immediately revise the tariff to include the change.

(3) **Recalculation of effective date upon cure of an insufficient application.** Upon the filing of an application curing each deficiency specified by the presiding officer, any deadlines must be determined from the date the application is deemed sufficient or from the effective date if the presiding officer extends that date.

(4) **Suspension of effective date.** For an application involving a rate change, the commission may suspend the effective date of the tariff change for 150 days after the requested effective date.

(A) In the event that a hearing on the merits exceeds 15 working days, the suspended effective date is extended two calendar days for each working day the hearing exceeds 15 working days.

(B) If the presiding officer does not make a final determination concerning the effective date of a rate change before the expiration of the suspension period, the effective date is automatically approved unless a hearing is already in progress.

(f) **Administrative review.** An application filed in accordance with this section will be reviewed administratively.

(1) **Review of sufficiency.**

(A) The presiding officer will deem an application to be sufficient if it, at a minimum:

(i) includes an effective date and, as applicable, meets the requirements of subparagraphs (b)(2)(A) or (b)(3)(A) of this section;

(ii) meets the requirements of §26.207 of this title and the applicable provision specified by paragraph (a)(1) of this section under which the application was filed;

(iii) includes proof that notice of the application was provided in compliance with subsection (d) of this section; and

(iv) if the application involves the withdrawal of a service, that the requirements of subsection (i) of this section have been met.

(B) No later than 20 days after the date an application is filed:

(i) an interested person, including the Office of Public Utility Counsel (OPUC), may file written comments or recommendations concerning the sufficiency of the application; and

1 (ii) commission staff must file a recommendation regarding the
2 sufficiency of the application.

3 (C) If the presiding officer concludes that the application is insufficient, the
4 presiding officer will notify the applicant of the insufficiency in the relevant
5 portions of the application and cite the particular requirement with which
6 the application does not comply. The presiding officer will grant the
7 applicant an opportunity to cure each specific deficiency within a specified
8 time period, and change the effective date in accordance with paragraph
9 (e)(3) of this section.

10 (2) **Substantive review of application.** The presiding officer must approve or deny
11 an application not later than 60 days after a complete application is filed. An
12 application is complete if the presiding officer has deemed that the application is
13 sufficient under paragraph (1) of this subsection.

14 (A) The presiding officer will substantively review the application to determine
15 whether the application fulfills the requirements of this subparagraph and
16 other applicable law. To approve an application, the presiding officer must,
17 at a minimum, determine that:

18 (i) the proposed rates and terms of the service are not unreasonably
19 preferential, prejudicial, or discriminatory, subsidized directly or
20 indirectly by regulated monopoly services, or predatory or
21 anticompetitive; and

22 (ii) provision of the service is consistent with the public interest in a
23 technologically advanced telecommunications system, the

preservation of universal service, and the prevention of
anticompetitive practices and of subsidization of new and
experimental services with revenues from regulated monopoly
services.

(B) Commission staff must file a recommendation regarding whether the
application meets the substantive requirements of this paragraph.
Commission staff's recommendation on whether an application meets the
substantive requirements for administrative approval may be provided with
its recommendation on the sufficiency of the application in accordance with
paragraph (1) of this subsection, or in a subsequent filing.

(C) While the application is under substantive review by the presiding officer,
commission staff and OPUC may submit requests for information to the
applicant.

(i) Notwithstanding the requirements of §22.144 of this title (relating
to Requests for Information and Requests for Admission of Facts),
the applicant must file the requested information with the
commission within 15 days after receipt of such a request for
information.

(ii) If an applicant does not respond to a request for information within
the time period specified by clause (i) of this subparagraph, the
presiding officer will reject the application without prejudice and
notify the applicant of the rejection.

(iii) If the presiding officer does not approve or deny the application within 30 days from the date the requested information is filed with the commission, the application is automatically approved.

(3) **Automatic approval.** A complete application is automatically approved 60 days from the date it is filed if:

(A) the presiding officer does not approve or deny the complete application; and

(B) commission staff or the presiding officer do not request supplemental information from the applicant.

(4) **Docketing prohibited.** An application, except for an application involving a rate increase as provided by subsection (h) of this section, cannot be docketed.

(g) **Approval or denial of applications.** For an application to be approved, the applicant must meet the requirements of the applicable provisions of this section and other applicable law, unless such requirements are modified or waived by the presiding officer. If, based on the administrative review, the presiding officer determines that:

(1) all requirements not waived have been met, the application will be approved in the manner specified by the presiding officer.

(2) one or more of the requirements not waived have not been met, the presiding officer will:

(i) dismiss the application without prejudice; or

(ii) docket the application in accordance with subsection (h) of this section if the application involves a rate change, except for a rate change covered by §26.171 of this title.

1
2 (h) **Docketing and of an application involving a rate change.** The presiding officer may
3 docket an application involving a rate change, except for a rate change covered by §26.171
4 of this title, in accordance with this section.

5 (1) If an application is docketed, the presiding officer may suspend the effective date
6 of a rate change in the manner provided by paragraph (e)(4) of this section via order.

7 (1) A copy of all answers to requests for information issued after docketing must be
8 filed with the commission within 15 days after receipt of the request.

9 (2) An affected person may move to intervene in the docket, and a hearing on the merits
10 will be scheduled.

11 (3) The application will be processed in accordance with the commission's rules
12 applicable to docketed proceedings.

13
14 (i) **Withdrawal of a service.** When an applicant seeks to withdraw a tariffed service, the
15 application must be filed in accordance with this subsection. An applicant must provide
16 the following in its application before withdrawing a service.

17 (1) The control number for the project where the tariff was filed, including a hyperlink
18 to the project;

19 (2) Proof of notice by the applicant, as required by subsection (d), or as otherwise
20 required by the presiding officer.

21 (3) The number of current customers in each exchange, by customer class;

22 (4) The reason for withdrawing the service;

- 1 (5) Provisions for grandfathering each current customer or for competitive alternatives
2 available within the exchange locations, including each alternative provided by the
3 DCTU;
- 4 (6) Annual revenues for the last three years for the service; and
- 5 (7) If the service has no current customers, the applicant must provide an affidavit to
6 this effect.
- 7

1 **§26.209. New and Experimental Services.**

2 (a) **Application.** This section applies to dominant certificated telecommunications utilities
3 (DCTUs), as that term is defined by §26.5 of this title (relating to Definitions).

4 (1) ~~The~~In addition, the services to which this section applies are those that are a subset
5 of a service for which the utility is dominant.

6 (2) A DCTU may alternatively seek approval for an application for a new or
7 experimental service in accordance with §26.208 of this title (relating to General
8 Tariff Procedures), however the presiding officer may require any application for a
9 new or experimental service to also comply with the requirements of this section.

10 (3) If an application for a new or experimental service is reviewed under this section,
11 each rate established for such a service must comply with the requirements of
12 §26.208 of this title.

13
14 (b) **Purpose.** The procedures in this section establish the process by which a DCTU
15 obtains~~DCTUs obtain~~ approval to offer new and experimental services.

16
17 (c) **Filings requesting approval of new and experimental services.** A DCTU may request
18 approval of a new or experimental service by following the procedures outlined in this
19 section. ~~In addition to copies required by other commission rules, one copy of the~~
20 ~~application shall be delivered to the Office of Regulatory Affairs and one copy to the Office~~
21 ~~of Public Utility Counsel. Nothing in this section precludes a DCTU from utilizing other~~
22 ~~provisions of this title to seek approval to offer such services, however, the commission or~~
23 ~~the presiding officer, in its discretion, may require any application for a new or~~

1 ~~experimental service to comply with the requirements of this section.~~ Not later than ~~3530~~
2 days prior to the proposed effective date of the new or experimental service, the DCTU
3 ~~must~~shall file with the commission ~~and the Office of Public Utility Counsel~~ an application
4 containing the following information:

5 (1)-(3) (No change.)

6 (4) a statement detailing the type of notice, ~~if any,~~ the utility has provided or intends to
7 provide to the public regarding the application and a brief statement explaining why
8 the DCTU's notice proposal is reasonable and in compliance with
9 ~~§26.208~~§26.208(e) of this title ~~(relating to General Tariff Procedures);~~

10 (5) a copy ~~of the text~~ of the notice, if any;

11 (6) detailed documentation showing that the proposed service is priced above the long
12 run incremental cost of such service. The commission ~~will~~shall allow an incumbent
13 local exchange carrier (LEC) that is not a Tier 1 LEC as of September 1, 1995, at
14 that company's option, to adopt the cost studies approved by the commission for a
15 Tier 1 LEC. The application ~~must~~shall also include projections of revenues,
16 demand, and expenses demonstrating that in the second year after the service is first
17 offered, the proposed rates will generate sufficient annual revenues to recover the
18 annual long run incremental costs of providing the service, as well as a contribution
19 for joint ~~or~~and/or common costs. Capital costs related to providing the service
20 ~~must~~shall be separately identified in these projections. The application ~~must~~shall
21 also include all workpapers and supporting documentation relating to computations
22 or assumptions contained in the application.

(7) If the application concerns a service which will not initially be offered system-wide, the application ~~must~~shall separately explain for each exchange in which the service will not be offered why the DCTU's facilities in that exchange do not have the technical capability to handle the service.

(8) The application ~~must~~shall also include:

(A) an implementation plan which ~~must~~shall specify the DCTU's plans for making the service available in such exchanges within a reasonable time after receipt by the LEC of a bona fide request for the service. ~~The DCTU shall also specify in its plan~~

(B) what requirements must be met for a request for service to be considered bona fide. This requirement does not apply to experimental services, but the DCTU ~~must~~shall specify the exchanges in which it proposes to offer the experimental service.

(98) If the application concerns an experimental service for which a range of rates is proposed, the application ~~must~~shall state the range of rates requested and show in detail how the upper and lower rates in that range relate to the long run incremental cost of the service.

(109) Any other information which the DCTU wants considered in connection with the commission's review of its application.

(d) **Modifications and waivers of requirements.**

(1) In its application a DCTU may request; ~~and the commission or the presiding officer may grant for good cause~~

(A) the modification or waiver of requirements set forth in this section concerning system-wide rates;

(B) system-wide provision of service;

(C) the one-year maximum period for offering an experimental service; the one-year, cost-related prove-in period;

(D) or long run incremental cost support.

(2) Subsequent to the introduction of an experimental service, a DCTU may also apply for modification of the period initially approved for offering the service, provided that:-

(A) ~~An~~ However, no experimental service will not ~~shall~~ be approved for more than two years;

(B) ~~A~~ no prove-in period will not ~~shall~~ be extended beyond two years and;

(C) As an alternative to providing in lieu of incremental cost information, the DCTU must provide other cost support demonstrating that the proposed rates for the service will recover its costs plus a contribution within the required period.

(3) A waiver of the incremental cost standard must ~~shall~~ only be granted if the presiding officer determines that such a standard imposes an unreasonable burden on a DCTU which has inadequate resources to produce the required cost information to meet that standard and if the presiding officer determines that an appropriate alternative cost standard is available.

(4) Any request for modification or waiver of these requirements must ~~shall~~ include a complete statement of the DCTU's arguments supporting that request. The