

1 presiding officer ~~will~~shall rule on the waiver request within 15 days of the filing of
2 the request. ~~A copy of the presiding officer's ruling shall be provided to the~~
3 ~~commission, and the commission may overrule any waiver granted by a presiding~~
4 ~~officer within 15 days of the presiding officer's ruling.~~

5
6 (e) **Requirements for proposed new and experimental services.** Unless waived or modified
7 by the presiding officer as provided under subsection (d) of this section, the following
8 requirements ~~must~~shall apply to any new service approved under this section:

9 (1) Such new service ~~must~~shall be offered at the same price throughout the DCTU's
10 system.

11 (2) The service ~~must~~shall also be offered in every exchange served by the DCTU,
12 except exchanges in which the DCTU's facilities do not have the technical
13 capability to handle the service.

14 (3) The rates for a new service ~~must~~shall be designed to generate sufficient annual
15 revenues to recover the annual long run incremental cost of the service, including
16 a contribution for joint ~~and/or~~ common costs, in the second year after it is first
17 offered. Requirements related to system-wide pricing and system-wide provision
18 of service do not apply to a proposed experimental service.

19 (4) An experimental service approved under this section may be flexibly priced
20 provided that the minimum rate in the range of rates ~~must~~shall be above the long
21 run incremental cost of providing the service. The DCTU may make a change in
22 rates within an approved range of rates upon such notice to customers and the
23 commission as the presiding officer may require. In addition, before discontinuing

1 provision of an experimental service, the DCTU ~~must~~shall give such notice of the
2 discontinuation as the presiding officer may require.
3

4 ~~(f) — **Interim rates.** For good cause, interim rates may be approved after docketing. However,~~
5 ~~interim rates shall not be approved if the new service requires substantial initial investment~~
6 ~~by customers before they may receive the service unless the commission requires the~~
7 ~~DCTU to notify every customer prior to purchasing the service that this investment is at~~
8 ~~risk due to the interim nature of the service and the rates for the service and unless the~~
9 ~~DCTU makes appropriate provisions to protect its customers from the risks of the DCTU's~~
10 ~~failure to notify.~~

11
12 ~~(fg)~~ **Reporting requirements.**

13 ~~(1) —~~ If a new service is approved ~~based on either an administrative review or a docketed~~
14 ~~proceeding,~~ the DCTU ~~must~~shall file with the commission

15 ~~(A) —~~ tracking reports showing the actual revenues;

16 ~~(B) —~~ demand and related expenses for the service;

17 ~~(C) —~~ its progress on the implementation plan, if any such plan was approved by
18 the commission;

19 ~~(D) —~~ and such other information as may be required by the presiding
20 ~~officer~~commission ~~(or, in connection with an administrative review, by the~~
21 ~~presiding officer)~~ or requested by the commission staff.

22 ~~(2) —~~ Reports filed under this section must be filed as specified by this paragraph, unless
23 otherwise excepted by paragraph (3) of this subsection

(A) ~~The initial~~ ~~One such~~ report ~~is~~ ~~shall be~~ due nine months after the service is first offered and ~~must~~ ~~shall~~ contain information for at least the first six months the service was offered.

(B) ~~The second such report must~~ ~~shall be~~ filed 12 months after the service is first offered and ~~must~~ ~~shall~~ contain information for at least the first nine months the service was offered.

(C) ~~The third such report must~~ ~~shall be~~ filed no later than 15 months after the service is first offered and ~~must~~ ~~shall~~ contain information for at least the first 12 months the service was offered.

(3) ~~Such reporting requirements are~~ ~~shall be~~ waived for experimental services of one year's duration or less, but the DCTU ~~must~~ ~~shall~~ retain in its record such information related to revenues, demand and expenses and ~~must~~ ~~shall~~ submit such information with any subsequent request to make a formerly experimental service a permanent new service.

(gh) **Subsequent review of the service.** Except as prohibited by ~~the Public Utility Regulatory Act~~ ~~Chapters 58 or 59 of the Public Utility Regulatory Act~~, if a new or experimental service is approved ~~under the procedures set forth in this section~~, the commission staff or any affected person may file with the commission a petition seeking modification of the rates or terms under which the service is offered or withdrawal of the service.

(hi) **Provisions for SLECs.** Notwithstanding ~~§26.208~~ ~~§26.208(e)~~ of this title (relating to General Tariff Procedures) and subsections (c),(d), and (e) of this section, the provisions

1 of this subsection apply to a small local exchange company (SLEC) as defined in §26.5 of
2 this title (relating to Definitions). If the presiding ~~officer~~examiner determines that the
3 SLEC is seeking to adopt as its rates for its new or experimental services the rates for the
4 same or substantially similar services offered by ~~an ILECa incumbent local exchange~~
5 ~~company~~:

6 (1) (No change.)

7 (2) a waiver of the incremental cost standard ~~will~~shall be granted.

8

1 **§26.210. Promotional Rates for Local Exchange Company Services.**

2
3 (a) **Application.** This section applies to dominant certificated telecommunications utilities
4 (DCTUs) as that term is defined by §26.5 of this title (relating to Definitions) which are
5 subject to the ratemaking jurisdiction of the commission for any service or market.

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

10 (2) If an application for a promotional rate is reviewed under this section, each
11 promotional rate must comply with the requirements of §26.208 of this title.

12
13 (b) **Purpose.** The procedures outlined in this section are intended to establish a process by
14 which DCTUs may obtain authorization for offering promotional rates for the purpose of
15 increasing long term demand for a service ~~or~~ utilizing unused capacity of the
16 DCTU's network.

17
18 (c) **Filings requesting approval of promotional rates.** After the effective date of this section,
19 a DCTU may request approval of promotional rates for a service by following the
20 procedures outlined in this section. ~~In addition to copies required by other commission~~
21 ~~rules, one copy of the application shall be delivered to the Regulatory Division. Nothing~~
22 ~~in this section precludes a DCTU from utilizing other provisions of this title to offer such~~
23 ~~promotional rates.~~ Not later than ~~3530~~ days prior to the proposed effective date of the

1 promotional rate, the DCTU ~~must~~shall file with the commission and the Office of Public
2 ~~Utility Counsel~~ an application containing the following information:

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

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

8 (7) a copy of the ~~text~~ of the notice, if any;

9 (8) detailed documentation showing the long run incremental cost of the service for
10 which promotional rates are requested, including projections of revenues, demand
11 and expenses of the service for the period during which the promotional rates are
12 proposed to be offered. The commission ~~will~~shall allow an incumbent local
13 exchange company (LEC) that is not a Tier 1 LEC as of September 1, 1995, at that
14 company's option, to adopt the cost studies approved by the commission for a Tier
15 1 LEC. The application ~~must~~shall include projections of the effect of the
16 promotional rate on the service's revenues and cost and its impact on the service's
17 contribution during the promotional period and over the remaining life of the
18 service. The application ~~must~~shall also include all workpapers and supporting
19 documentation relating to computations or assumptions contained in the
20 application; and

21 (9) (No change.)

22

(d) **Modification and waivers of requirements.** In its application a DCTU may request the waiver of the long run incremental cost requirements set forth in this section. Such a waiver ~~will~~shall only be granted if the presiding officer determines that the long run incremental cost standard imposes an unreasonable burden on a DCTU which has inadequate resources to produce the required cost information to meet the standard and if the presiding officer determines that an appropriate alternative cost standard is available. If the long run incremental cost standard is waived, the DCTU must provide other cost information showing the relationship between its proposed promotional rates and the costs of providing the service. A DCTU may also request a waiver of the requirement that promotional rates be offered in every exchange when such rates are proposed to be offered for a tariffed service which is being expanded into central offices which previously did not provide the service. Any request for waiver of the long run incremental cost information requirement or the system-wide application of the promotional rates requirement ~~must~~shall include a complete statement of the DCTU' arguments supporting that request.

(e) **Notice of intent to file.** At least ten days before any application under this section may be filed by a DCTU, the DCTU ~~must~~shall file a statement of intent to file such an application and the expected filing date. Such notice ~~must~~shall also include a statement of the DCTU's intent to use the expedited procedures of this section, a description of the service, and a description of the proposed promotional rates and the proposed promotional period. The commission ~~must~~shall then publish notice of the DCTU's intent to file such application in the *Texas Register*.

(f) **Requirements for promotional rates.** Unless waived or modified by the presiding officer as provided in subsection (d) of this section, the following requirements ~~must~~shall apply to promotional rates approved under this section:

- (1) the promotional rates ~~must~~shall be offered in every exchange in which the service is offered throughout the DCTU's system;
- (2) promotional rates for any particular service in any specific exchange ~~must~~shall not be offered for more than six months during any five-year period, and no customer ~~must~~shall be charged promotional rates for more than three consecutive months;
- (3) promotional rates ~~must~~shall be offered only to new customers of a service or to new and existing customers, provided that, for existing customers, the promotional rates ~~must~~shall only apply to additional units of service ordered during the promotional rate period; and
- (4) the promotional rate ~~must~~shall be designed to generate sufficient revenue to recover the long run incremental cost of providing the service (or, if the long run incremental cost standard is waived, such other costs as are approved by the commission) within one year of introduction of the promotional rate. If the proposed promotional rate is for the reduction or elimination of an installation charge or service connection charge, the revenue and costs related to provision of the entire service ~~must~~shall be used in determining whether the cost standard for the service is met. If the proposed promotional rate is for a service whose tariffed rate does not recover the costs of providing the service, a promotional rate may be approved if the DCTU can demonstrate that the promotional rate will move the service closer to full cost recovery. However, no promotional rate ~~must~~shall be

approved for a service whose tariffed rate does not recover the cost of the service if such service has been found to be subject to significant competition under §26.211 of this title (related to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges) or if the service is enumerated in the Public Utility Regulatory Act §52.057. The commission may approve a promotional rate even if it does not provide a contribution to joint and common costs.

(g) **Notification to the public of services to be offered at promotional rates.** If promotional rates for a service are approved under this section, all advertising related to such service and its promotional rates ~~must~~shall clearly describe the temporary nature of the rate, the date on which the promotional rate will expire, and the rate which will apply after expiration of the promotional rate. The DCTU ~~must~~shall provide the same information to all customers requesting rate information for such service or ordering the service during the period the promotional rates are in effect.

(h) **Reporting requirements.** If promotional rates are approved ~~based on either an administrative review or a docketed proceeding~~, the DCTU ~~must~~shall file with the commission a report showing the actual revenues, demand and related expenses and investment for the service over each period promotional rates are in effect. This report ~~must~~shall be filed with the commission within three months after each authorized period for offering promotional rates has expired.

(i) **Treatment of revenues and expenses related to promotional rates in subsequent rate cases.** In any subsequent rate case in which a service was offered at promotional rates during the test year, the revenues attributed to such service ~~must~~shall be adjusted upward to reflect the revenues which would have been collected if all customers who were charged the promotional rate had been charged the permanent tariffed rate over the promotional period.

(j) **Subsequent review of the promotional rates.** If promotional rates for a service are approved under the procedures set forth in this section, the commission's Office of Regulatory Affairs, the Office of Public Utility Counsel, or any affected person may file with the commission a petition seeking modification of the rates or terms under which the promotional rate is offered or withdrawal of the promotional rate. If multiple promotional rate periods are approved for a service under the provisions of this section and if the reports filed in accordance with subsection (h) of this section indicate that the rates for the service did not recover the costs of the service as required in subsection (f) of this section, the commission ~~must~~shall initiate an inquiry into the reasonableness of such promotional rates and ~~must~~shall suspend those rates pending the completion of the inquiry.

(k) **Provisions for SLECs.** Notwithstanding ~~§26.208~~§26.208(e) of this title ~~(relating to General Tariff Procedures)~~ and subsections (c), (d), and (f) of this section, the provisions of this subsection apply to a small local exchange company (SLEC) as defined in §26.5 of this title ~~(relating to Definitions)~~definitions. If the presiding ~~officer~~examiner determines

1 that the SLEC is seeking to adopt as its promotional rates for its services the rates for the
2 same or similar services offered by an incumbent local exchange carrier:

3 (1) (No change.)

4 (2) a waiver of the incremental cost standard willshall be granted.

5

1 **§26.211. Rate-Setting Flexibility for Services Subject to Significant Competitive**

2 **Challenges.**

3
4 (a) **Application.** The provisions of this section apply to an incumbent local exchange
5 company (ILEC) ~~companies (ILECs), as defined by §26.5 of this title (relating to~~
6 ~~Definitions).~~ This section does not apply to a deregulated company holding a certificate
7 of operating authority or to an exempt carrier under PURA §52.154.

8
9 (b) **Purpose.** The purpose of this section is to establish procedures for pricing flexibility for
10 services subject to competition and a process for commission~~the~~ review of pricing
11 flexibility applications.

12
13 (c) **Pricing flexibility.**

14 (1) **Eligible services.** ~~An ILEC The types of pricing flexibility that an incumbent~~
15 ~~local exchange company (ILEC) may request the types of pricing flexibility~~
16 ~~established by this subsection are set forth in subparagraphs (A) (C) of this~~
17 ~~paragraph.~~

18 (A) **Banded rates.** If an ILEC is granted the authority to charge banded rates,
19 the minimum rates must~~shall~~ yield revenues that are equal to or greater than
20 105% of the long run incremental cost of the service in the geographic
21 market in which the service will be provided.

22 (i) When an ILEC is granted the authority to charge banded rates, the
23 ILEC must~~shall~~ file a tariff showing the minimum and maximum
24 rates and specifying its current rate. The current rate, ~~as~~ specified

1 in the ILEC's tariff, ~~must~~shall be applied uniformly to all customers
2 of the service in each exchange for which the commission has
3 approved banded rates.

4 (ii) If the ILEC desires to charge a rate different from its current rate,
5 but between the minimum and maximum rates, it ~~must~~shall file a
6 revised tariff on or before the effective date of the rate change.

7 (iii) The minimum and maximum rates may only be changed as provided
8 for in the Public Utility Regulatory Act, Chapter 53, Subchapters C
9 and D, or G.

10 (B) **Detariffing.** If an ILEC is granted the authority to detariff a service, the
11 ILEC ~~must~~shall maintain at the commission a current price list for the
12 service, and the commission ~~must~~shall retain authority to regulate the
13 quality, terms and conditions of the detariffed service, other than rates. The
14 commission may determine the appropriate ratemaking treatment of any
15 revenues from or costs of providing a detariffed service in a proceeding
16 under the Public Utility Regulatory Act, Chapter 53, Subchapters C and D,
17 or G.

18 (C) **Other types of pricing flexibility.** If an ILEC is granted the authority to
19 engage in a type of pricing flexibility that the commission finds to be in the
20 public interest other than those specified in subparagraphs (A)-(B) of this
21 paragraph, that pricing flexibility ~~must~~shall be offered under such terms and
22 conditions as the commission orders.

(2) **Other services.** ILECs have the authority to enter into customer-specific contracts for those services specified in subsection (d) of this section. For those services, ILECs may apply ~~for to the commission pursuant to this subsection to obtain a type~~ of pricing flexibility for the services specified in paragraph (1) of this subsection, other than customer-specific contracts. For other services, ILECs may apply to the commission ~~in accordance with~~ pursuant to this subsection to obtain any type of pricing flexibility specified in paragraph (1) of this subsection. ~~Nothing. However,~~ nothing in this subsection ~~permits~~ shall permit an ILEC to:

(A) obtain pricing flexibility for basic local telecommunications service, including local measured service, or for any service that includes as a component a service not subject to significant competitive challenge; or

~~Additionally, nothing in this subsection shall permit an ILEC to~~

(B) enter into customer-specific contracts or to obtain detariffing with respect to message telecommunications services, switched access services, or wide area telecommunications service.

(3) **Requirements for application.** An application for pricing flexibility filed under this paragraph ~~must~~ shall:

(A) include a statement of the ILEC's intention to use the procedures established in this subsection;

(B) specify the type of pricing flexibility requested and, if the type of pricing flexibility requested is either banded rates or some other type of pricing flexibility in accordance with subparagraph ~~pursuant to paragraph (1)(C) of~~ this subsection that involves rate-setting;

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

(iv) demonstrate that the rates are such that the service identified in accordance with~~pursuant~~ to subparagraph (C) of this paragraph will not be subsidized directly or indirectly by regulated monopoly services; and

(v) (No change.)

(C) identify the service for which the ILEC is requesting pricing flexibility, including each component of the service~~thereof~~, and provide functional and technical descriptions of the service, including:

(i)-(iv) (No change.)

(D) identify each service that is not subject to significant competitive challenge but that, at the time the ILEC files its application for pricing flexibility, the ILEC intends to provide as a tariffed adjunct to the service identified in subparagraph (C) of this paragraph and, for each such service, provide:

(i) (No change.)

(ii) citations to the tariff provisions under~~pursuant~~ to which each such service will be provided;

(E) designate each exchange~~the exchange(s)~~ as to which the ILEC is seeking pricing flexibility;

(F) include a map or maps of each exchange~~the exchange(s)~~ designated in accordance with~~pursuant~~ to subparagraph (E) of this paragraph that can be coordinated with the official commission boundary maps;

(G) describe the products or services known to the ILEC that are currently available in ~~each exchange~~~~the exchange(s)~~ designated in accordance with~~pursuant to~~ subparagraph (E) of this paragraph, and that are the same, equivalent, or substitutable for the service identified in accordance with~~pursuant to~~ subparagraph (C) of this paragraph, and identify the providers of those products or services;

(H) with respect to the products or services described in accordance with~~pursuant to~~ subparagraph (G) of this paragraph, discuss:

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

(I) demonstrate that the level of competition with respect to all components of the ILEC's service identified in accordance with~~pursuant to~~ subparagraph (C) of this paragraph represents a significant competitive challenge within ~~each exchange~~~~the exchange(s)~~ designated in accordance with~~pursuant to~~ subparagraph (E) of this paragraph that warrants the pricing flexibility specified in accordance with~~pursuant to~~ subparagraph (B) of this paragraph;

(J) demonstrate that the service identified in accordance with~~pursuant to~~ subparagraph (C) of this paragraph is not basic local telecommunications service, including local measured service;

(K) if the type of pricing flexibility requested in accordance with~~pursuant to~~ subparagraph (B) of this paragraph is customer-specific pricing or detariffing, demonstrate that the service identified in accordance with~~pursuant to~~ subparagraph (C) of this paragraph is not message

telecommunications service, switched access service, or wide area telecommunications service;

(L) to prevent the subsidization of the service identified in accordance with~~pursuant to~~ subparagraph (C) of this paragraph with revenues from regulated monopoly services, propose mechanisms to recover costs that may not be identified and recovered in a long run incremental cost study, including but not limited to costs associated with advertising, unsuccessful bids, and all items of plant used in the provision of the service;

(M) (No change.)

(N) for any type of pricing flexibility other than detariffing, include proposed tariffs and identify any tariff language that restricts the resale, sharing, or joint use of the service identified in accordance with~~pursuant to~~ subparagraph (C) of this paragraph and any component of the service~~thereof~~ and demonstrate why such restrictive tariff language is consistent with the policy established in the Public Utility Regulatory Act §52.001; and

(O) (No change.)

(4) **Tier 1 LECs.** The commission ~~will~~shall allow an incumbent LEC that is not a Tier 1 LEC as of September 1, 1995, at that company's option, to adopt the cost studies approved by the commission for a Tier 1 LEC.

(5) **Notice filing.** An ILEC may, in accordance with §26.227 of this title (relating to Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies.), submit an informational notice filing to introduce a service or exercise pricing flexibility to which this

section applies. An informational notice filing must also comply with §26.228 of this title (relating to Requirements Applicable to Pricing Flexibility for Chapter 58 Electing Companies) or §26.229 of this title (relating to Requirements Applicable to Chapter 52 Companies) as applicable. ~~An application for pricing flexibility shall be docketed and assigned to a presiding officer. No later than ten working days after the filing of an application for pricing flexibility, the presiding officer shall issue an order scheduling a prehearing conference for the purposes of determining notice requirements, establishing a procedural schedule, and addressing other matters as may be appropriate. The commission shall make a final decision no later than 180 days after the completion of notice, as ordered by the presiding officer. However, this 180-day period shall be extended two days for each one day of actual hearing on the merits of the case that exceeds 15 days. The presiding officer or commission, upon a showing of good cause relating to the applicant's failure or refusal to prosecute, including but not limited to the applicant's unreasonable resistance to discovery, may further extend the timeline, provided that the order shall specifically identify the facts found to constitute good cause. This deadline may be expressly waived by the applicant.~~

- (6) **Review of competition outside exchange.** For ILECs with less than 31,000 access lines, the presiding officer will~~commission shall~~ not be limited under ~~clauses~~paragraph (7)(D)(i)-(x) of this subsection to considering only competition within each exchange~~the exchange(s)~~ where the ILEC will provide the service. In accordance with subparagraph~~Pursuant to paragraph~~ (3)(O) of this subsection, an ILEC with less than 31,000 access lines may provide information that addresses the

criteria of ~~subparagraph~~paragraph (3)(G)-(I) of this subsection with respect to products or services available outside ~~each exchange~~~~the exchange(s)~~ designated in ~~subparagraph~~paragraph (3)(E) of this subsection.

- (7) **Application requirements.** An application for pricing flexibility ~~will~~shall be approved if, after ~~commission review~~~~an evidentiary hearing~~, the commission ~~determines~~~~finds, based on the evidence~~, that:

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

(D) the grant of pricing flexibility for the service identified in accordance with ~~subparagraph~~pursuant to paragraph (3)(C) of this subsection within ~~each~~~~the~~ ~~exchange(s)~~ designated in accordance with subparagraph~~pursuant to paragraph~~ (3)(E) of this subsection is appropriate to allow the ILEC to respond to a significant competitive challenge, based upon consideration of the following:

- (i) the number and size of telecommunications utilities or other persons providing the same, equivalent, or substitutable service within each ~~exchange~~~~the exchange(s)~~ designated in accordance with ~~subparagraph~~pursuant to paragraph (3)(E) of this subsection;
- (ii) the extent to which the same, equivalent, or substitutable service is available within ~~each exchange~~~~the exchange(s)~~ designated in accordance with subparagraph~~pursuant to paragraph~~ (3)(E) of this subsection;
- (iii) the ability of customers to obtain the same, equivalent, or substitutable services at comparable rates, terms, and conditions

- 1 within ~~each exchange~~the exchange(s) designated in accordance with
2 subparagraph pursuant to paragraph (3)(E) of this subsection;
- 3 (iv) the ability of telecommunications utilities or other persons to make
4 the same, equivalent, or substitutable service readily available at
5 comparable rates, terms, and conditions within ~~each exchange~~the
6 exchange(s) designated in accordance with subparagraph pursuant to
7 paragraph (3)(E) of this subsection;
- 8 (v) the existence of any significant barrier to the entry or exit of a
9 provider of the same, equivalent or substitutable services within
10 ~~each~~the ~~exchange(s)~~ designated in accordance with
11 subparagraph pursuant to paragraph (3)(E) of this subsection;
- 12 (vi)-(vii)(No change.)
- 13 (viii) whether the ability of the ILEC to flexibly price the service within
14 ~~each~~the designated ~~exchange~~exchange(s) would have any
15 significant impact on universal service;
- 16 (ix) whether the type of pricing flexibility requested is appropriate in
17 light of the level and nature of competition within ~~each exchange~~the
18 exchange(s) where the ILEC will provide the service; and
- 19 (x) any other relevant information contained in the record;
- 20 (E) the rates, if the type of pricing flexibility granted is either banded rates or
21 some other type of pricing flexibility in accordance with
22 subparagraph pursuant to paragraph (1)(C) of this subsection that involves
23 rate-setting, are just and reasonable and:

(i)-(iv) (No change.)

(8) **Alternative relief.** Nothing in this subsection ~~prevents~~~~is intended to prevent~~ the presiding officer from ~~recommending, or the commission from approving based on the record evidence,~~ relief other than that requested in the application.

(d) **Customer-specific contracts.** An ILEC ~~may~~~~shall have the authority to~~ enter into customer-specific contracts for:

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

(4) customized services that are unique because of size or configuration, provided that such customized services ~~do~~~~shall~~ not include basic local telecommunications service, including local measured service, or message telecommunications services, switched access services, or wide area telecommunications service; and

(5) any other service for which the commission has authorized the ILEC to enter into customer-specific contracts ~~in accordance with~~~~pursuant to~~ this section.

(e) **Subsequent review.** The commission may modify, or revoke, upon notice and hearing, the authorization of any type or types of pricing flexibility granted ~~in accordance with~~~~pursuant to~~ this section.

~~(f) **Severability.** If any provision of this section or the application thereof to any person or any circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application. It is the intent of the commission that the provisions of this section are severable.~~

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

(a) **Application.** This section ~~applies~~~~shall~~ apply to ILECs with annual revenues from regulated telecommunications operations in Texas of less than \$100 million for five consecutive years.

(b) **Purpose.** This section ~~will~~~~shall~~ be used to determine the long run incremental costs incurred by ILECs in the provision of telecommunications services in those instances in which the ILEC chooses to establish LRIC studies.

(c) (No change.)

(d) **Procedures for review of LRIC studies filed under subsection (c) of this section.** A LRIC study considered under this section ~~will~~~~shall~~ be reviewed administratively to determine whether the ILECs LRIC study is consistent with the requirements of this section.

(1) **Notice.** At least ten days before an ILEC files any LRIC study pursuant to this section, the ILEC ~~must~~~~shall~~ file with the commission and the Office of Public Utility Counsel (~~OPUC~~)(~~OPC~~) a notice of its intent to file such LRIC study and the expected filing date. The ILEC's notice ~~must~~~~shall~~ indicate that the filing is being made pursuant to this section. The commission ~~will~~~~shall~~ then publish notice of the ILEC's intent to file the LRIC study in the *Texas Register*.

(2) **Sufficiency.** The LRIC study ~~will~~~~shall~~ be examined for sufficiency. To be sufficient, the LRIC study ~~must~~~~shall~~ conform to the requirements of this section.

(A) Except as required under subparagraph (B) of this paragraph, if ~~the~~ commission staff concludes that material deficiencies exist in the LRIC study, the ILEC ~~must~~shall be notified by ~~the~~ commission staff of the specific deficiency within three working days after the filing date of the LRIC study. The ILEC ~~will~~shall have two working days after the date it is notified of the deficiency to file a corrected LRIC study. On or before five working days after the date of the ILEC response, the presiding officer ~~will~~shall issue an order with regard to the sufficiency.

(B) If the LRIC study filed for approval in accordance with~~pursuant to~~ this section is also filed simultaneously as part of an informational notice filing and a contested case arises as a result of the dispute regarding sufficiency of the LRIC study filed as part of the informational notice filing, the review of the LRIC study in accordance with~~pursuant to~~ this section ~~will~~shall be abated pending the resolution of the contested case.

(3) Time schedule.

(A) (No change.)

(B) No later than 55 days after the filing date of the sufficient LRIC study, OPUC~~OPC~~ may file with the presiding officer written comments or recommendations concerning the LRIC study.

(C) No later than 65 days after the filing date of the sufficient LRIC study, the commission staff ~~must~~shall file with the presiding officer written comments or recommendations concerning the LRIC study.

(D) No later than 75 days after the filing date of the sufficient LRIC study, any party that demonstrates justiciable interest, OPUC~~OPC~~, or the ILEC may file with the presiding officer a written response to the commission staff's recommendation.

(E) No later than 85 days after the filing date of the sufficient LRIC study, the presiding officer will~~shall~~ issue a notice stating whether the ILEC's LRIC study is consistent with the requirements of this section. In this notice, the presiding officer may either~~shall~~ approve the LRIC study or order the ILEC to refile the LRIC study incorporating all modifications recommended by the presiding officer.

(F) Any party may appeal to the commission an administrative notice by a presiding officer within seven days after the date the notice is issued. The commission will~~shall~~ rule on any appeal added to an open meeting agenda, within 30 days after the date the appeal is filed. If the commission or a presiding officer orders a cost study to be changed, the ILEC will~~shall~~ be ordered to make those changes within a period that is commensurate with the complexity of the LRIC study.

(G) Requests for information. While the LRIC study is being administratively reviewed, the commission staff, OPUC~~OPC~~, and any party that demonstrates a justiciable interest may submit requests for information to the ILEC. Answers~~Copies of all answers~~ to such requests for information must~~shall~~ be provided within ten days after receipt of the request by the

1 ILEC to ~~the~~ commission staff, OPUCOPC, and any party that demonstrates
2 a justiciable interest.

3 (H) Suspension. At any point within the first 45 days of the review process, the
4 presiding officer, the commission staff, OPUCOPC, the ILEC, or any party
5 that demonstrates a justiciable interest may request that the review process
6 be suspended for 30 days. The presiding officer may grant a request for
7 suspension only upon determination that the party has demonstrated a good
8 cause exists for the suspension.

9 (I) Effective date of the LRIC study. The effective date of the LRIC study
10 is~~shall be~~ the date it is approved by the presiding officer.
11

1
2 **§26.215. Long Run Incremental Cost Methodology for Dominant Certificated**
3 **Telecommunications Utility (DCTU) Services.**
4

5 (a)-(j) (No change.)

6 (k) **Review process for LRIC studies.** A LRIC study considered under this section ~~will~~
7 be reviewed administratively to determine whether the DCTU's LRIC study is consistent
8 with the principles, instructions and requirements set forth in this section.

9 (1) **Sufficiency.** The LRIC study ~~will~~
10 sufficient, the LRIC study ~~must~~
11 under the workplan approved by the commission. If the presiding officer or the
12 commission staff concludes that material deficiencies exist in the LRIC study, the
13 DCTU ~~will~~
14 deficiency in its LRIC study. The DCTU ~~will~~
15 notified of the deficiency to file a corrected LRIC study.

16 (2) **Time schedule.**

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

18 (C) No later than 65 days after the filing date of the sufficient LRIC study, ~~the~~
19 commission staff ~~must~~
20 recommendations concerning the LRIC study.

21 (D) (No change.)

22 (E) No later than 85 days after the filing date of the sufficient LRIC study, the presiding
23 officer ~~must~~
24 DCTU's LRIC study is consistent with the principles, instructions and requirements

1 set forth in this section. The presiding officer ~~must~~shall approve the LRIC study or
2 order the DCTU to refile the LRIC study incorporating all modifications
3 recommended by the presiding officer.

4 (F) Any party may appeal to the commission an administrative determination by a
5 presiding officer within five days after the date of notification of the determination.

6 The commission ~~will~~shall rule on the appeal within 30 days after the date it receives
7 the appeal. If the commission or a presiding officer orders a cost study to be
8 changed, the dominant certificated telecommunications utility ~~must~~shall be ordered
9 to make those changes within a period that is commensurate with the complexity
10 of the LRIC study.

11 (3) **Requests for information.** While the LRIC study is being administratively
12 reviewed, the commission staff, OPUC, and any party that demonstrates a
13 justiciable interest may submit requests for information to the DCTU.
14 ~~Answers~~Three copies of all answers to such requests for information ~~must~~shall be
15 provided within ten days after receipt of the request by the DCTU to ~~the~~
16 commission staff, OPUC and any party that demonstrates a justiciable interest.

17 (4) (No change.)

18 (l) (No change.)

19

1 **§26.217. Administration of Extended Area Service (EAS) Requests.**

2

3 (a) **Purpose.** This section establishes procedures for processing requests for extended area
4 service (EAS) ~~in accordance with~~pursuant to the Public Utility Regulatory Act (PURA),
5 Chapter 55, Subchapter B. On or after September 1, 2011, the commission ~~will~~may not
6 require a telecommunications provider to provide mandatory or optional extended area
7 service to additional metropolitan areas or calling areas.

8

9 (b) **Extended Area Service.** The term “~~utility~~utility(ies)” in this section refers to a dominant
10 certificated telecommunications ~~utility~~utility(ies).

11 (A) In order to be considered by the commission, a request for EAS must be
12 initiated by at least one of the following actions:

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

14 (iv) an application filed by one or more of ~~each~~the affected
15 utility~~utility(ies)~~.

16 (B) A request for establishment of a particular EAS arrangement in accordance
17 ~~with~~pursuant to subparagraph (A)(i), (ii), or (iii) of this paragraph must not
18 be considered sooner than three years after either a determination of the
19 failure of a previous request to meet eligibility requirements, or final
20 commission action on a previously docketed request. An exception to this
21 requirement may be granted to any petitioning exchange which
22 demonstrates that a change of circumstances may have materially affected

1 traffic levels between the petitioning exchange and the exchange to which
2 EAS is desired.

3 (C) A request for EAS ~~must~~shall state the name of ~~each exchange~~the
4 ~~exchange(s)~~ to which EAS is sought.

5 (D) The petition ~~must~~shall set forth the name and telephone number of each
6 signatory and the name of the exchange from which the subscribers receive
7 service.

8 (E) (No change.)

9 (F) Requests for EAS into metropolitan exchanges will be grouped by relevant
10 metropolitan exchange. For each metropolitan exchange, ~~the commission~~
11 staff will file a motion to docket a proceeding for the determination of
12 uniform EAS rate additives as directed by paragraphs (3), (4), and (5) of
13 this subsection for all pending EAS requests to that metropolitan exchange.
14 Upon the docketing of such a proceeding, the petitioned utility must publish
15 ~~two weeks~~ notice in a newspaper of general circulation in the metropolitan
16 area for two consecutive calendar weeks~~must be published~~. The notice
17 ~~must~~shall contain such information as deemed reasonable by the presiding
18 officer in the proceeding. ~~The~~No earlier than 60 days from the date of final
19 ~~publication of notice, the~~ demand studies required by paragraph (3) of this
20 subsection ~~must~~shall be initiated no earlier than 60 days from the date of
21 final publication of notice. New petitions for EAS into the metropolitan
22 exchange may be accepted prior to the initiation of the demand studies.

23 (2) **Community of interest.**

(A) Upon receipt of a proper filing under the provisions set out in paragraph (1) of this subsection, the ~~utility~~~~utility(ies)~~ involved will be directed by the commission staff to initiate appropriate calling usage studies. Within 90 days of receipt of such direction, the ~~utility~~~~utility(ies)~~ ~~must~~~~shall~~ provide the results of such studies to the commission staff and to a representative of ~~each the~~ petitioning ~~exchange~~~~exchange(s)~~. The message distribution and revenue distribution detail from the studies ~~must~~~~shall~~ be considered proprietary unless the parties agree otherwise and ~~must~~~~shall~~ not be released for use outside the context of the commission's proceedings. The data to be provided ~~must~~~~shall~~ be based upon a minimum 60 day study of representative calling patterns, ~~must~~~~shall~~ be in such form, detail, and content as the commission staff may reasonably require and ~~must~~~~shall~~ include at least the following information:

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

(vi) a listing of known interexchange carriers providing service between the petitioning exchange and ~~each exchange~~~~the exchange(s)~~ to which EAS is desired.

(B) A community of interest between exchanges ~~must~~~~shall~~ be considered to exist from one exchange to the other when:

(i) there is an average ~~(arithmetic mean)~~ of no less than ten calls per subscriber account per month from one exchange to the other, and

(ii) (No change.)

(C) A request for EAS ~~must~~shall be assigned a project number and notice ~~must~~shall be provided, ~~in accordance with~~pursuant to paragraph (7) of this subsection, when a community of interest is found to exist as described in subparagraph (B) of this paragraph:

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

(D) The project ~~must~~shall be established as a formal docket upon the motion of the commission staff.

(E) Following the docketing of a request, a prehearing conference ~~must~~shall be scheduled to establish ~~each exchange~~the exchange(s) to which EAS is sought, and to report any agreements reached by the parties. The ~~utility~~utility(ies) involved ~~must~~shall conduct appropriate demand and costing analyses according to paragraphs (3) and (4) of this subsection.

(3) **Demand analysis.**

(A) The ~~utility~~utility(ies) involved ~~must~~shall conduct analyses of anticipated demand for the requested EAS. The data ~~must~~shall be in such form, detail, and content as the commission staff may reasonably require and ~~must~~shall include, at a minimum, the following information:

(i) the number of subscribers who are expected to take the requested service at the estimated rates recommended in accordance ~~with~~pursuant to paragraph (5) of this subsection and the associated probability of that level of subscribership;

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

(B) Unless the ~~utility~~~~utility(ies)~~ demonstrates good cause to expand the time schedule, the ~~utility~~~~utility(ies)~~ ~~must~~~~shall~~ provide to the commission staff and to other parties to the proceeding, no later than 120 days after the prehearing conference, the results of these analyses, together with supporting schedules and detailed documentation needed to understand and verify the study results.

(4) **Determination of costs.**

(A) The ~~utility~~~~utility(ies)~~ involved ~~must~~~~shall~~ conduct studies necessary to determine the changes in costs and revenues which may reasonably be expected to result from establishment of the requested EAS. These studies ~~must~~~~shall~~ consider and develop the long run incremental costs as follows:

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

(B) (No change.)

(C) The ~~utility~~~~utility(ies)~~ ~~must~~~~shall~~ file with the commission's ~~Filing Clerk and~~ ~~serve copies on commission staff and other parties to the proceeding~~ the results of these studies, together with supporting schedules and detailed documentation needed to understand and verify the study results according to the following schedule, unless the ~~utility~~~~utility(ies)~~ can demonstrate that good cause exists to expand the time schedule for a particular study:

(i) incremental costs identified in this paragraph ~~must~~~~shall~~ be filed no later than 90 days from the filing of the results of the demand analysis conducted pursuant to paragraph (3) of this subsection; and

(ii) toll revenue effects, if analyzed pursuant to subparagraph (B) of this paragraph, ~~must~~ shall be filed no later than 90 days from the filing of the results of the incremental costs, pursuant to clause (i) of this subparagraph.

(5) **EAS rate additives.**

(A) Coincident with the filing of cost study results, or coincident with the toll revenue effect results, if filed, the ~~utility must~~ utility(ies) shall file recommendations for proposed incremental rate additives, by class of service, necessary to support the cost of the added service, as well as to support the toll revenue effect, if such effect is filed.

(i) EAS rate additives to be assessed on EAS subscribers in ~~each the~~ petitioning ~~exchange~~ exchange(s) are to recover the incremental cost of providing the service according to paragraph (4)(A) of this subsection plus 10% of the incremental cost.

(ii) The rate additives to be assessed on subscribers in the metropolitan exchange for which EAS has been requested are to recover revenues determined by the following formula: net lost toll multiplied by percent outbound toll, and multiplied by the estimated EAS take rate. The terms in the formula are defined as follows:

(I) (No change.)

(II) percent outbound toll - this factor is calculated by dividing toll minutes of use originating in the metropolitan exchange and terminating in the petitioning exchanges by the total

number of toll minutes of use between the metropolitan exchange and ~~each~~the petitioning ~~exchange~~exchange(s); and

(III) estimated EAS take rate - the estimated number of EAS subscribers in the petitioning exchanges divided by the total number of subscribers in ~~each~~the petitioning ~~exchange~~exchange(s).

(B) (No change.)

(C) A non-recurring charge to defray the direct incremental costs of the demand analyses identified in paragraph (4)(A)(iii) of this subsection ~~must~~shall be charged to subscribers who order the service within 12 months from the time it is first offered. The non-recurring charge ~~must~~shall not exceed \$5.00 per access line.

(D) The EAS rate additive to be used in ~~each~~the affected ~~exchange~~exchange(s) must meet the following standards.

(i) No increase in rates ~~must~~shall be incurred by the subscribers of non-benefiting exchanges, that is, by subscribers whose calling scopes are not affected by the requested EAS service.

(ii) If the petitioning exchange demonstrated a unilateral but not a bilateral community of interest through the requirements of paragraph (2)(C)(ii) of this subsection, the EAS arrangements ~~must~~shall be priced using those rate increments designed to recover the added costs for each route, plus the toll revenue effect, if reasonably substantiated. The total increment chargeable to

subscribers within an exchange ~~must~~shall be the sum of the increments of all new EAS routes established for that exchange.

(iii) If the petitioning exchange demonstrated a bilateral community of interest through the requirements of paragraph (2)(C)(i) of this subsection and requested that the costs be borne on a bilateral basis, the additional cost for the new EAS route ~~must~~shall be divided between the two participating exchanges according to the ratio of calling volumes between the two exchanges.

(iv) In establishing a flat rate EAS increment, all classes of customer access line rates within each exchange ~~must~~shall be increased by equal percentages.

(6) Subscription threshold.

(A) A threshold demand level ~~must~~shall be established by the commission's order in the docketed proceeding prior to the design or construction of facilities for the service. A reasonable pre-subscription process ~~must~~shall then be undertaken to determine the likely demand level. If the likely demand level equals or exceeds the threshold demand level, then EAS ~~must~~shall be provided in accordance with the commission's order. If the threshold demand level is not met, the affected ~~utility~~utility(ies) is not required to provide the EAS approved by the commission.

(B) The cost of pre-subscription ~~must~~shall be divided between the utility and the petitioners. The petitioners ~~must~~shall pay for the printing of bill inserts and ballots and the utility ~~must~~shall insert them in bills free of charge. In

the alternative, upon the agreement of the parties, the utility ~~must~~shall provide, free of charge, and under protective order, the mailing labels of the subscribers in the petitioning exchange, and the petitioners ~~must~~shall pay the cost of printing and mailing the bill inserts and ballots.

(7) **Notice.**

(A) Notice of the filing of an EAS application must be provided to all subscribers within ~~each~~the petitioning ~~exchange~~exchange(s), by publication for two consecutive weeks in a newspaper of general circulation in the area. Notice must also be given to individual subscribers either through inserts in customer bills, or through a separate mailing to each subscriber. The notice must state: the project number, the nature of the request, and the commission's mailing address and telephone number to contact in the event an individual wishes to protest or intervene. The commission ~~must~~shall also publish notice in the *Texas Register*.

(B) Written notice containing the information described above ~~must~~shall be provided to ~~each~~the governing ~~official~~official(s) of all incorporated areas within the affected exchanges and ~~each~~the county ~~commission~~commission(s), or ~~each~~the board of directors or trustees of a community association representing any unincorporated areas within the affected exchanges.

(C) The cost of notice ~~must~~shall be borne by the petitioners.

(8) **Joint filings.**

1 (A) EAS agreements. The commission may approve agreements for EAS or
2 EAS substitute services filed jointly by the representatives of petitioning
3 exchanges and the affected ~~utility(ies) (joint filings)~~ utility so long as the
4 agreements are in accordance with subparagraph (C)(i)-(x) of this
5 paragraph. Notwithstanding any other provisions of this paragraph, if more
6 than one political subdivision is affected by a proposed optional calling plan
7 under PURA §55.023, the agreement of each political subdivision is not
8 required.

9 (B) Multiple exchange common calling plans. Joint filing agreements for EAS
10 or EAS substitute services among three or more exchanges ~~must~~ shall be
11 permitted ~~in accordance with~~ pursuant to subparagraph (C)(i)-(x) of this
12 paragraph.

13 (C) Standards for joint filings. Joint filings ~~must~~ shall be permitted subject to
14 the following:

15 (i) The parties to joint filings ~~must~~ shall include the name of each utility
16 which provides service in the affected exchanges and one duly
17 appointed representative for each affected exchange. Each
18 exchange representative ~~must~~ shall be designated jointly by the
19 governing officials of all incorporated areas within the affected
20 exchange and ~~each~~ the county ~~commissioner~~ commission(s)
21 representing any unincorporated areas within the affected exchange.

22 (ii) (No change.)

(iii) Joint filings may include rate proposals which are flat rate, usage sensitive, block rates, or other pricing mechanisms. If usage-sensitive rates are proposed, joint applicants ~~must~~shall include the commission staff in their negotiations.

(iv)-(v)(No change.)

(vi) Joint filings ~~must~~shall specify all non-recurring and recurring rate additives to be paid by the various classes and grades of service in the affected exchanges.

(vii) Joint filings ~~must~~shall demonstrate that the proposed rate additives:

(I) are in the public interest, and in the case of non-optional joint filings which include flat rate additives, the filing ~~must~~shall demonstrate that more than 50% of the total subscribers who will experience a rate change are in favor of this joint filing at the proposed rates; and

(II) (No change.)

(viii) The notice requirements of paragraph (7) of this subsection are applicable to joint filings. In addition, the commission ~~must~~shall publish notice of the proposed joint filing in the *Texas Register* and ~~must~~shall provide notice to the Office of Public Utility Counsel upon receipt of the joint filing.

(ix) If intervenor status is not granted within 60 days of completion of notice, the joint filing ~~must~~shall be handled administratively, with the commission determining whether the service meets the criteria

1 listed in clause (vii) of this subparagraph. If requested by an
2 intervenor or the commission staff, the joint filing ~~must~~shall be
3 docketed for hearing and final order. Any of the parties to the joint
4 filing may withdraw the joint filing without prejudice at any time
5 prior to the rendition of the final order. Any alteration or
6 modification of the joint filing by the commission may only be made
7 upon the agreement of all parties to the proceeding.

- 8 (x) The exchanges to be included within the proposed common calling
9 plan area ~~must~~shall be contained within a continuous boundary and
10 all exchanges within that boundary ~~must~~shall be included in the
11 common calling plan.
12

§26.221. Applications to Establish or Increase Expanded Local Calling Service Surcharges.

(a) **Purpose.** The purpose of this section is to provide the standard for review of an incumbent local exchange company (ILEC) application, filed in accordance with~~pursuant to~~ the Public Utility Regulatory Act (PURA) §55.048(c), to recover all costs incurred and all loss of revenue from an expansion of a toll-free local calling area.

(b) **Definitions.** The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

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

(3) **Expanded local calling service (ELCS)** — A two-way toll-free local calling service provided by an ILEC to telephone service subscribers in accordance with~~pursuant to~~ §26.219 of this title (relating to Administration of Expanded Local Calling Service Requests).

(4) **Expanded local calling service (ELCS) fee** — A fee billed by an ILEC, in accordance with~~pursuant to~~ PURA §55.048(b), to subscribers in a petitioning telephone exchange.

(5) (No change.)

(6) **Expanded local calling service (ELCS) surcharge** — A fee billed by an ILEC, in accordance with~~pursuant to~~ PURA §55.048(c), to each Texas subscriber~~all of the ILEC's Texas subscribers~~, unless an exception is granted by the commission.

ELCS surcharges are designed to recover the residual in paragraph (8) of this subsection.

(7)-(8) (No change.)

(c) **General Principles.** The commission will~~shall~~ consider these general principles when establishing or increasing ELCS surcharges.

(1) The commission may, at any time, initiate a show cause investigation or a compliance investigation of ELCS surcharges in accordance with~~pursuant to~~ Procedural Rule §22.241 of this title (relating to Investigations) to determine whether ELCS surcharges comply with the requirements in PURA §55.048.

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

(4) An application to establish an ELCS surcharge must~~shall~~ contain information that enables commission staff~~the Office of Regulatory Affairs~~ to validate and replicate the method used by the ILEC to develop a proposed ELCS surcharge.

(5) When established, ELCS surcharges must~~shall~~ be based upon the most current count of local exchange access lines billed by an ILEC.

(6) The commission will~~shall~~ pursue the goal of revenue neutrality in designing ELCS surcharges.

(7) Except as provided under subsection (i)(1) of this section, an ILEC has no continuing right to bill an ELCS surcharge for an indefinite period.

(8) ELCS surcharges must~~shall~~ be designed so that business subscribers are billed twice the monthly per line charge billed to residential subscribers.

(d) **Confidentiality.** Before filing an application regarding an ELCS surcharge, an ILEC ~~must~~ shall obtain agreement from ~~commission staff~~ the Office of Regulatory Affairs on a method for securing the confidentiality of information the ILEC deems confidential. An application filed ~~in accordance with~~ pursuant to subsection (e) of this section ~~must~~ shall not exclude information deemed confidential by the ILEC.

(e) **Filing an application.** An application to establish or increase an ELCS surcharge ~~must~~ shall be assigned a ~~control~~ project number and a presiding officer ~~must~~ shall be assigned to the project. An ILEC's application ~~must~~ shall be reviewed administratively unless the presiding officer docket the project. An application ~~must~~ shall, at a minimum, include:

(1) twelve consecutive months of actual toll revenue data collected as near the ELCS implementation date as is practicable but not possible ~~and, in no event,~~ earlier than 18 months before the ELCS implementation date. Data provided by an ILEC ~~must~~ shall show actual toll revenue billed by the ILEC for each direction of each pre-ELCS toll route for each of the 12 consecutive months collected;

(2) twelve consecutive months of actual access revenue data collected as near the ELCS implementation date as is practicable but not possible ~~and, in no event,~~ earlier than 18 months before the ELCS implementation date. Data provided by an ILEC ~~must~~ shall show access revenue billed by the ILEC for each direction of each pre-ELCS access route for each of the 12 consecutive months collected;

(3)-(8) (No change.)

(9) a copy of the confidentiality agreement, if such an agreement is necessary, signed by a representative of ~~commission staff~~the Office of Regulatory Affairs;

(10)-(11) (No change.)

(f) Administrative response to an application.

(1) **Notice.** The presiding officer ~~will~~shall approve or modify the notice proposed under subsection (e)(10) of this section within 20 days after the filing of an application to establish or increase ELCS surcharges. The ILEC ~~must~~shall arrange for publication of notice at least once each week for four consecutive weeks, in newspapers having general circulation in each of the ILEC's affected telephone exchanges. Published notice ~~must~~shall identify the assigned ~~control project~~ number, ~~must~~shall include the language ~~provided by~~in ~~Procedural Rule~~ §22.51(a)(1)(F) of this title (relating to Notice for Public Utility Regulatory Act, Chapter 36, Subchapters C-E; Chapter 51, §51.009; and Chapter 53, Subchapters C-E, Proceedings) modified to reflect the appropriate intervention deadline, ~~must~~shall describe the application and ~~must~~shall be written in ~~plain~~both English and Spanish. Notice ~~must~~shall be published within 40 days of the date the presiding officer files an order approving the notice format. The ILEC ~~must~~shall file an affidavit of completion of published notice within ten days following such completion. The presiding officer ~~will~~shall cause notice to be published in the *Texas Register* within 30 days of the date an order of approval of the notice format is filed. Additionally, the ILEC ~~must~~shall provide a copy of its application to the Office of Public Utility

Counsel on the same day the application is filed with the ~~commissioner's~~
Filing Clerk.

(2) **Intervention.** The intervention deadline ~~must~~~~shall~~ be no sooner than ten days after the last date notice is published. On or before the intervention deadline, any interested person may file a request to intervene in the project. The presiding officer ~~will~~~~shall~~ rule on a request to intervene, in accordance with ~~Procedural Rule~~ §22.103 of this title (relating to Standing to Intervene) within ten days from the date the request for intervention is filed with the ~~commissioner's~~~~commission's~~ Filing Clerk. Intervention by an interested person does not by itself require that the project be docketed.

(3) **Discovery.** Discovery may commence on the date the application is filed in accordance with ~~the commission's Procedural Rules~~, Chapter 22, Subchapter H of this title (relating to Discovery Procedures).

(4) **Interim surcharges.** ~~No later~~~~Not more~~ than 30 days after the intervention deadline, the presiding officer ~~will~~~~shall~~ grant or deny, in whole or in part, a request for interim relief and may approve or modify a proposed interim ELC surcharge in accordance with ~~Procedural Rule~~ §22.125 of this title (relating to Interim Relief).

(5) **Sufficiency review and requests for exemption.** Within 30 days after the filing of an ILEC application, ~~commission staff must~~~~the Office of Regulatory Affairs~~ ~~shall~~ file comments on the sufficiency of the application and on any request for exemption filed by the ILEC under subsection (e)(8) of this section. ~~No later~~~~Not~~ more than 30 days after ~~commission staff's~~~~Office of Regulatory Affairs'~~ comments are filed, the ILEC ~~must~~~~shall~~ file a response and may amend or supplement its

1 application. ~~No later~~~~Not more~~ than ten days after the ILEC's response is filed,
2 ~~commission staff must~~~~the Office of Regulatory Affairs shall~~ file a recommendation
3 to the presiding officer addressing whether the application is sufficient and whether
4 any requests for exemption should be granted.

5 (6) **Docketing.** If ~~commission staff~~~~the Office of Regulatory Affairs~~, or any intervenor
6 files, within 30 days after the intervention deadline, a request to docket the project,
7 the presiding officer ~~will~~~~shall~~ docket the project. Upon docketing, the presiding
8 officer ~~will~~~~shall~~ ascertain whether the parties prefer to pursue settlement
9 negotiations or alternative dispute resolution. If so, the presiding officer ~~will~~~~shall~~
10 abate the docket for a reasonable period. If the parties prefer to establish a
11 procedural schedule, the presiding officer may refer the docket to the State Office
12 of Administrative Hearings or may take other appropriate action. If neither
13 ~~commission staff~~~~the Office of Regulatory Affairs~~ nor an intervenor requests
14 docketing, the presiding officer ~~must~~~~shall~~ administratively approve or modify the
15 application within 40 days after the intervention deadline.

16
17 (g) **Calculation of initial ELCS surcharges.** An initial ELCS surcharge ~~must~~~~shall~~ be
18 calculated using the formula described in this subsection unless the presiding officer, for
19 good cause, modifies the formula.

20 (1)-(3) (No change.)

21
22 (h) **Adjustments to ELCS surcharges.** ELCS surcharges ~~must~~~~shall~~ be adjusted using the
23 formula described in subsection (g) of this section, except that:

(1) the numerator established in a previous application may be modified to consider new information relevant to development of the residual:

(A) for any ELCS surcharge approved before February 1, 2000, if the commission reserved the right to subsequently review the costs incurred and lost revenues associated with the ELCS surcharge; or

(B) for any ELCS surcharge approved after February 1, 2000; and

(2) the denominator ~~must~~shall be modified to reflect the most current count of local exchange access lines at the time of the adjustment. For ELCS surcharges approved before February 1, 2000, if the number of access lines in the denominator initially included only non-petitioning exchanges, an adjustment in the number of access lines ~~must~~shall include only non-petitioning exchanges.

(i) **Duration.** An ILEC ~~must~~shall select a preferred duration of applicability of its proposed ELCS surcharges from alternatives listed in this subsection. The commission may establish ELCS surcharges for any duration.

(1) **Permanent.** An ILEC may initiate a review of ~~all of~~ its rates and charges by filing a rate filing package. Following a review of the ILEC's cost of service in accordance with~~pursuant to Substantive Rule~~ §26.201 of this title (relating to Cost of Service), any resulting ELCS surcharge ~~must~~shall be considered permanent unless modified, for good cause, by the commission.

(2) **Phase-down.** If an ILEC's application to establish or increase an ELCS surcharge contains all information required in subsection (e)(1)-(6) of this section, the ILEC may propose a phase-down of its ELCS surcharge for a duration of five years. The

1 phase-down ~~must~~shall be implemented by reducing each ELCS surcharge by 20%
2 at the end of each year of the phase-down period. At the end of the five-year phase-
3 down period, the ELCS surcharge ~~must~~shall be zero. ~~A tariff sheet~~Tariff sheet(s)
4 filed by the ILEC ~~must~~shall contain ELCS surcharges for each of the five years of
5 the phase-down period.

- 6 (3) **Phase-out.** An ILEC that files an application to establish or increase an ELCS
7 surcharge may propose a phase-out of its ELCS surcharge. A proposed phase-out
8 ~~must~~shall be for a duration not to exceed two years. At the end of the phase-out
9 period, the ELCS surcharge ~~must~~shall be zero. ~~A tariff sheet~~Tariff sheet(s) filed by
10 the ILEC ~~must~~shall contain ELCS surcharges for the two-year period and ~~must~~shall
11 state the two-year duration of applicability of the ELCS surcharges.

12

§26.224. Requirements Applicable to Basic Network Services for Chapter 58 Electing Companies.

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

(j) Proprietary or confidential information.

(1) Information filed ~~in accordance with~~pursuant to this ~~section~~rule is presumed to be public information. An electing company ~~has~~shall have the burden of establishing that information filed ~~in accordance with~~pursuant to this ~~section~~rule is proprietary or confidential.

(2) Nothing in this subsection ~~must~~shall be construed to change the presumption that information filed ~~in accordance with~~pursuant to this rule is public information. An electing company that intends to rely upon data it purports is proprietary or confidential in support of an application made ~~in accordance with~~pursuant to this section ~~must file such~~shall submit two copies of the proprietary or confidential data confidentially to Central Records for use by the commission staff subject to a commission approved protective agreement. An electing company that intends to rely upon proprietary or confidential data has the burden of providing- such- data on- the- same- date the- associated- tariff- sheets are filed. In the event an electing company's proprietary or confidential data is not provided with the associated tariff sheets, the procedural schedule ~~will~~shall be adjusted day-for-day to reflect the number of days the proprietary or confidential data is delayed.

(l) (No change.)

1 **§26.272. Interconnection.**

2

3 (a) **Purpose.** The purpose of this section is to ensure that a telecommunications service
4 provider that is all providers of telecommunications services which are certificated
5 provideste provide local exchange service, basic local telecommunications service, or
6 switched access service within the state interconnect and maintainsmaintain interoperable
7 networks such that the benefits of local exchange competition are realized as envisioned
8 under the provisions of the Public Utility Regulatory Act (PURA). The commission finds
9 that interconnection is necessary to achieve competition in the local exchange market and
10 is, therefore, in the public interest.

11

12 (b) **Definition.** The term “customer” when used in this section, meansshall mean an end-user
13 customer.

14

15 (c) **Application and Exceptions.**

16 (1) **Application.** This section applies to aall certificated telecommunications utility
17 (CTU) that providesutilities (CTUs) providing local exchange service.

18 (2) **Exceptions.** Except as ~~herein provided~~ under this paragraph, a CTUall CTUs
19 providing local exchange service must comply with the requirements of this
20 section.

21 (A) Holders of a service provider certificate of operating authority (SPCOA).

22 (i) The holder of an SPCOA that does not provide dial tone and only
23 resells the telephone services of another CTU ~~is shall be~~ subject only

to the requirements of subsection (e)(1)(B)(ii) and (D)(i)-(vii) of this section and subsection (i)(1)-(3) of this section.

- (ii) The underlying CTU providing service to the holder of an SPCOA referenced in clause (i) of this subparagraph ~~must~~shall comply with the requirements of this section with respect to the customers of the SPCOA holder.

(B) Small incumbent local exchange companies (ILECs).

- (i) This section ~~applies~~shall apply to small ILECs to the extent required by 47 United States Code (U.S.C.) §251(f) (1996).

- (ii) Notwithstanding the requirement in clause (i) of this subparagraph, small ILECs ~~must~~shall terminate traffic of a CTU which originates and terminates within the small ILEC's extended local calling service (ELCS) or extended area service (EAS) calling scope, where the small ILEC has an ELCS or EAS arrangement with another DCTU. The termination of this traffic ~~must~~shall be at rates, terms, and conditions ~~prescribed by subparagraphs described in subsection (d)(4)(A) of this section.~~

(C) Rural telephone companies.

- (i) This section ~~shall also apply~~apply to rural telephone companies as defined in 47 ~~U.S.C. United States Code~~ §153 (1996) to the extent required by 47 ~~U.S.C. United States Code~~ §251(f) (1996).

- (ii) Rural telephone companies ~~must~~shall terminate traffic of a CTU ~~that which~~ originates and terminates within the rural telephone

company's ELCS or EAS calling scope, where the rural telephone company has an ELCS or EAS arrangement with another DCTU. The termination of this traffic shall be at rates, terms, and conditions as described in subparagraph~~subsection~~ (d)(4)(A) of this section.

(D) Small CTUs.

(i) A small CTU may petition for a suspension or modification of the application of this section in accordance with~~pursuant to~~ 47 U.S.C. ~~United States Code~~ §251(f)(2) (1996).

(ii) Small CTUs must~~shall~~ terminate traffic of a CTU that~~which~~ originates and terminates within the small CTU's ELCS or EAS calling scope, where the small CTU has an ELCS or EAS arrangement with another DCTU. The termination of this traffic shall be at rates, terms, and conditions as described in subparagraph~~subsection~~ (d)(4)(A) of this section.

(E) Deregulated companies and nondominant telecommunications utilities. Subsection (i)(2) and (3) of this section does not apply to deregulated companies holding a certificate of operating authority or to exempt carriers that meets the criteria of~~under~~ PURA §52.154.

(d) **Principles of interconnection.**

(1) **General principles.**

(A) Interconnection between CTUs ~~must~~^{shall} be established in a manner that is seamless, interoperable, technically and economically efficient, and transparent to the customer.

(B) Interconnection between CTUs ~~must~~^{shall} utilize nationally accepted telecommunications industry standards ~~and/or~~ mutually acceptable standards for construction, operation, testing and maintenance of networks, such that the integrity of the networks is not impaired.

(C) (No change.)

(D) An interconnecting CTU must~~Interconnecting CTUs shall~~ negotiate rates, terms, and conditions for facilities, services, or any other interconnection arrangements required ~~in accordance with~~^{pursuant to} this section.

(E) This section ~~does not authorize~~^{should not be construed to allow} an interconnecting CTU access to another CTU's network proprietary information or customer proprietary network information, customer-specific as defined in §26.5 of this title (relating to Definitions) unless otherwise permitted in this section.

(2) Technical interconnection principles. An interconnecting CTU~~must~~^{Interconnecting CTUs shall} make a good-faith effort to accommodate each interconnecting CTU's~~other's~~ technical requests, provided that the technical requests are consistent with national industry standards and are in compliance with §26.52 of this title (relating to Emergency Operations), §26.53 of this title (relating to Inspections and Tests), §26.54 of this title (relating to Service Objectives and Performance Benchmarks), §26.55 of this title (relating to Monitoring of Service),

§26.57 of this title (relating to Requirements for a Certificate Holder's Use of an Alternate Technology to Meet its Provider of Last Resort Obligation), §26.89 of this title (relating to Nondominant Carriers' Obligations Regarding Information on Rates and Services~~Information Regarding Rates and Services of Nondominant Carriers~~), §26.107 of this title (relating to Registration of Interexchange Carriers (IXCs), Prepaid Calling Services Companies (PPC), and Other Nondominant Telecommunications Carriers), §26.128 of this title (relating to Telephone Directories), §26.206 of this title (relating to Depreciation Rates), and implementation of the requests would not cause unreasonable inefficiencies, unreasonable costs, or other detriment to the network of the CTU receiving the requests.

(A) An interconnecting CTU must~~Interconnecting CTUs shall~~ ensure that each customer~~customers~~ of other interconnecting CTUs are~~CTUs shall~~ not required~~have~~ to dial additional digits or incur dialing delays that exceed industry standards ~~in order~~ to complete local calls as a result of interconnection.

(B) An interconnecting CTU must~~Interconnecting CTUs shall~~ provide other interconnecting CTUs~~each other~~ non-discriminatory access to signaling systems, databases, facilities, and information as required to ensure interoperability of networks and efficient, timely provision of services to customers.

- (C) An interconnecting CTU must~~Interconnecting CTUs shall~~ provide other~~interconnecting CTUs~~ each other Common Channel Signaling System Seven (SS7) connectivity where technically available.
- (D) An interconnecting CTU is~~Interconnecting CTUs shall~~ be permitted a minimum of one point of interconnection in each exchange area or group of contiguous exchange areas within a single local access and transport area (LATA), as requested by the interconnecting CTU, and may negotiate with the other CTU for additional interconnection points. An interconnecting CTU must~~Interconnecting CTUs shall~~ agree to construct, and/or lease, and maintain the facilities necessary to connect ~~their~~ networks, either by having one CTU provide the entire facility or by sharing the construction and maintenance of the facilities necessary to connect ~~their~~ networks. The financial responsibility for construction and maintenance of such facilities ~~is~~~~shall~~ be borne by the party who constructs and maintains the facility, unless the parties involved agree to other financial arrangements. Each interconnecting CTU ~~is~~~~shall~~ be responsible for delivering its originating traffic to the mutually agreed upon~~mutually agreed upon~~ point of interconnection or points of interconnection. Nothing in this subparagraph~~herein~~ precludes a CTU from recovering the costs of construction and maintenance of facilities if such facilities are utilized~~used~~ by other CTUs.
- (E) An interconnecting CTU must~~Interconnecting CTUs shall~~ establish joint procedures for troubleshooting the portions of jointly used~~their~~ networks

1 ~~that are jointly used.~~ Each CTU ~~is~~shall be responsible for maintaining and
2 monitoring its own network such that the overall integrity of the
3 interconnected network is maintained with service quality that is consistent
4 with industry standards and is in compliance with §26.53 of this title.

5 (F) If ~~an interconnecting~~a CTU has sufficient facilities in place, it ~~must~~shall
6 provide intermediate transport arrangements between other interconnecting
7 CTUs, upon request. A CTU providing intermediate transport ~~must~~shall
8 not negotiate termination on behalf of another CTU, unless the terminating
9 CTU agrees to such an arrangement. Upon request, DCTUs within major
10 metropolitan areas ~~must~~will contact other CTUs and arrange meetings,
11 within 15 days of such request, ~~in an effort to~~ facilitate negotiations and
12 provide a forum for discussion of network efficiencies and inter-company
13 billing arrangements.

14 (G) Each interconnecting CTU ~~is~~shall be responsible for ensuring that traffic is
15 properly routed to the connected CTU and jurisdictionally identified by
16 percent usage factors or in a manner agreed upon by the interconnecting
17 CTUs.

18 (H) ~~An interconnecting CTU must~~Interconnecting CTUs shall allow other
19 interconnecting CTUs~~each other~~ non-discriminatory access to all facility
20 rights-of-way, conduits, pole attachments, building entrance facilities, and
21 other pathways, provided that the requesting CTU has obtained all required
22 authorizations from the property owner and/or appropriate governmental
23 authority.

(I) ~~An interconnecting CTU must~~~~Interconnecting CTUs shall~~ provide ~~other~~
~~interconnecting CTUs~~~~each other~~ physical interconnection in a non-
discriminatory manner. Physical collocation for the transmission of local
exchange traffic ~~must~~~~shall~~ be provided to a CTU upon request, unless the
CTU from which collocation is sought demonstrates that technical or space
limitations make physical collocation impractical. Virtual collocation for
the transmission of local exchange traffic ~~must~~~~shall~~ be implemented at the
option of the CTU requesting the interconnection.

(J) Each interconnecting CTU ~~is~~~~shall~~ be responsible for contacting the North
American Numbering Plan (NANP) administrator for its own NXX codes
and for initiating NXX assignment requests.

(3) **Principles regarding billing arrangements.**

(A) ~~An interconnecting CTU must~~~~Interconnecting CTUs shall~~ cooperatively
provide ~~each~~ other interconnecting CTUs with both answer and disconnect
supervision as well as accurate and timely exchange of information on
billing records to facilitate billing to customers, to determine intercompany
settlements for local and non-local traffic, and to validate the jurisdictional
nature of traffic, as necessary. Such billing records ~~must~~~~shall~~ be provided
in accordance with national industry standards. For a billing interexchange
carrier~~carriers~~ for jointly provided switched access services, such billing
records shall include meet point billing records, interexchange carrier (IXC)
billing name, IXC billing address, and Carrier Identification Codes (CICs).
If exchange of CIC codes is not technically feasible, an interconnecting

1 ~~CTU must~~~~CTUs shall~~ negotiate a mutually acceptable settlement process
2 for billing IXC's for jointly provided switched access services.

3 (B) ~~A CTU must~~~~CTUs shall~~ enter into mutual billing and collection
4 arrangements with other CTUs that are comparable to those existing
5 between ~~and~~ or among DCTUs, to ensure acceptance of each other's non-
6 proprietary calling cards and operator-assisted calls.

7 (C) Upon a customer's selection of a CTU for ~~his or her~~ local exchange service,
8 that CTU ~~must~~~~shall~~ provide notification to the primary IXC through the
9 Customer Account Record Exchange (CARE) database, or comparable
10 means if CARE is unavailable, of all information necessary for billing that
11 customer. At a minimum, this information ~~must~~~~should~~
12 and contact person for the new CTU and the customer's name, telephone
13 number, and billing number. In the event a customer's local exchange
14 service is disconnected at the option of the customer or the CTU, the
15 disconnecting CTU ~~must~~~~shall~~ provide notification to the primary IXC of
16 such disconnection.

17 (D) ~~A CTU must~~~~All CTUs shall~~ cooperate with IXC's to ensure that customers
18 are properly billed for IXC services.

19 (4) **Principles regarding interconnection rates, terms, and conditions.**

20 (A) Criteria for setting interconnection rates, terms, and conditions.
21 Interconnection rates, terms, and conditions ~~must~~~~shall~~ not be unreasonably
22 preferential, discriminatory, or prejudicial, and ~~must~~~~shall~~ be non-

1 discriminatory. The following criteria ~~must~~shall be used to establish
2 interconnection rates, terms, and conditions.

3 (i) Local traffic of a CTU ~~that~~which originates and terminates within
4 the mandatory single or multiexchange local calling area available
5 under the basic local exchange rate of a single DCTU shall be
6 terminated by the CTU at local interconnection rates. The local
7 interconnection rates under this clause also apply with respect to
8 mandatory EAS traffic originated and terminated within the local
9 calling area of a DCTU if such traffic is between exchanges served
10 by that single DCTU.

11 (ii) If a non-dominant certificated telecommunications utility (NCTU)
12 offers, on a mandatory basis, the same minimum ELCS calling
13 scope that a DCTU offers under its ELCS arrangement, a NCTU
14 ~~must~~shall receive arrangements for its ELCS traffic that are not less
15 favorable than the DCTU provides for terminating mandatory ELCS
16 traffic.

17 (iii) With respect to local traffic originated and terminated within the
18 local calling area of a DCTU but between exchanges of two or more
19 DCTUs governed by mandatory EAS arrangements, DCTUs
20 ~~must~~shall terminate local traffic of NCTUs at rates, terms, and
21 conditions that are not less favorable than those between DCTUs for
22 similar mandatory EAS traffic for the affected area. A NCTU and a
23 DCTU may agree to terms and conditions that are different from

those that exist between DCTUs for similar mandatory EAS traffic.

The rates applicable to the NCTU for such traffic ~~must~~shall reflect the difference in costs to the DCTU caused by the different terms and conditions.

(iv) With respect to traffic that originates and terminates within an optional flat rate calling area, whether between exchanges of one DCTU or between exchanges of two or more DCTUs, a DCTU must~~DCTUs shall~~ terminate such traffic of NCTUs at rates, terms, and conditions that are not less favorable than those between DCTUs for similar traffic. A NCTU and a DCTU may agree to terms and conditions that are different from those that exist between DCTUs for similar optional EAS traffic. The rates applicable to the NCTU for such traffic ~~must~~shall reflect the difference in costs to the DCTU caused by the different terms and conditions.

(v) A DCTU with more than one million access lines and a NCTU ~~must~~shall negotiate new EAS arrangements in accordance with the following requirements.

(1) For traffic between an exchange and a contiguous metropolitan exchange local calling area, as defined in §26.5 of this title, the DCTU ~~must~~shall negotiate with a NCTU for termination of such traffic if the NCTU includes such traffic as part of its customers' local calling area. These interconnection arrangements ~~must~~shall ~~be~~ not less

1 favorable than the arrangements between DCTUs for similar
2 EAS traffic.

3 (II) For traffic that does not originate or terminate within a
4 metropolitan exchange local calling area, the DCTU
5 ~~must~~shall negotiate with a NCTU for the termination of
6 traffic between the contiguous service areas of the DCTU
7 and the NCTU if the NCTU includes such traffic as part of
8 its customers' local calling area and such traffic originates in
9 an exchange served by the DCTU. These interconnection
10 arrangements ~~must~~shall be not less favorable than the
11 arrangements between DCTUs for similar EAS traffic.

12 (III) A NCTU ~~must~~shall have the same obligation to negotiate
13 similar EAS interconnection arrangements with respect to
14 traffic between its service area and a contiguous exchange of
15 the DCTU if the DCTU includes such traffic as part of its
16 customers' local calling area

17 (vi) (No change.)

18 (B) Establishment of rates, terms, and conditions.

19 (i) ~~A CTU~~CTUs involved in interconnection negotiations ~~must~~shall
20 ensure that all reasonable negotiation opportunities are completed
21 prior to the termination of the first commercial call. The date upon
22 which the first commercial call between CTUs is terminated
23 signifies the beginning of a nine-month period in which each CTU

1 ~~must~~shall reciprocally terminate the other CTU's traffic at no
2 charge, in the absence of mutually negotiated interconnection rates.
3 Reciprocal interconnection rates, terms, and conditions ~~must~~shall be
4 established in accordance with~~pursuant to~~ the compulsory
5 arbitration process in subsection (g) of this section. In establishing
6 these initial rates and three years from termination of the first
7 commercial call, no cost studies shall be required from a new CTU.

8 (ii) An ILEC may adopt the tariffed interconnection rates approved for
9 a larger ILEC or interconnection rates of a larger ILEC resulting
10 from negotiations without providing the commission any additional
11 cost justification for the adopted rates. If an ILEC adopts the tariffed
12 interconnection rates approved for a larger ILEC, it ~~must~~shall file
13 tariffs referencing the appropriate larger ILEC's rates. If an ILEC
14 adopts the interconnection rates of a larger ILEC, the new CTU may
15 adopt those rates as its own rates by filing tariffs referencing the
16 appropriate larger ILEC's rates. If an ILEC chooses to file its own
17 interconnection tariff, the new CTU must also file its own
18 interconnection tariff.

19 (C) Public disclosure of interconnection rates, terms, and conditions.
20 Interconnection rates, terms, and/or conditions ~~must~~shall be made publicly
21 available as provided in subsection (h) of this section.

22
23 (e) **Minimum interconnection arrangements.**

(1) ~~In accordance with~~Pursuant to mutual agreements, interconnecting CTUs ~~must~~shall provide each other non-discriminatory access to ancillary services such as repair services, E9-1-1, operator services, white pages telephone directory listing, publication and distribution, and directory assistance. The following minimum terms and conditions shall apply:

(A) Repair services. For purposes of this section, a CTU ~~must~~shall be required to provide repair services for its own facilities regardless of whether such facilities are used by the CTU for retail purposes, ~~or~~provided by the CTU for resale purposes, or whether the facilities are ordered by another CTU for purposes of collocation.

(B) E-9-1-1 services. E-9-1-1 services include automatic number identification (ANI), ANI and automatic location identification (ALI) selective routing, ~~and/or~~ any combination of 9-1-1 features required by the 9-1-1 administrative entity or entities responsible for the geographic area involved.

(i) A CTU must meet the requirements of this clause before~~As a prerequisite to~~ providing local exchange telephone service to any customer or any other service by which~~whereby~~ a customer may dial 9-1-1 ~~and thereafter, a CTU must meet the following requirements.~~

(l) A~~The~~ CTU is responsible for ordering the dedicated 9-1-1 trunk groups necessary to provide E9-1-1 service as approved by the appropriate 9-1-1 administrative entity or entities in the relevant 9-1-1 service ~~agreement~~agreement(s),

and subject to the written process for documenting “unnecessary dedicated 9-1-1 trunks” in clause (vi)(I) of this subparagraph. Connection with the appropriate CTU in the provision of 9-1-1 service may be either directly or indirectly in a manner approved by the appropriate 9-1-1 administrative entity or entities.

(II) ~~A~~The CTU is responsible for enabling each customer of the CTU~~all its customers~~ to dial the three digits 9,1,1 to access 9-1-1 service.

(III) ~~A~~The CTU is responsible for providing the ANI to the appropriate CTU operating the 9-1-1 selective routers, 9-1-1 tandems, IP-based 9-1-1 systems, NG9-1-1 systems, or appropriate PSAPs, as applicable. The ANI must include both the NPA or numbering plan digit (NPD), a component of the traditional 9-1-1 signaling protocol that identifies 1 of 4 possible NPAs, as appropriate, and the local telephone number of the 9-1-1 calling customer that can be used to successfully complete a return call to the customer.

(IV) ~~A~~The CTU is responsible for routing a 9-1-1 customer call, as well as interconnecting traffic on its network, to the appropriate 9-1-1 selective routers, 9-1-1 tandems, IP-based 9-1-1 systems, NG9-1-1 systems, or PSAPs, as applicable, based on the ANI ~~and~~ or ALI. The appropriate 9-1-1

administrative entity or entities or the 9-1-1 network services provider, as applicable, ~~must~~shall provide specifications to the CTU for routing purposes.

(V) The CTU is responsible for providing the ALI for each of its customers. The ALI ~~must~~shall consist of the calling customer name, physical location, appropriate emergency service providers, and other similar standard ALI location data specified by the appropriate 9-1-1 administrative entity. For purposes of this subclause, other similar standard ALI data does not include supplemental data that is not part of the standard ALI location record.

(ii) ~~A~~Each CTU ~~must~~shall timely provide to the appropriate 911 administrative entity and the appropriate 9-1-1 database management services provider accurate and timely current information for all published, unpublished or ~~(nonpublished)~~, and unlisted or ~~(nonlisted)~~ information associated with its customers for the purposes of emergency or E-911 services.

(I) For purposes of this clause, a CTU timely provides the information if, within 24 hours of receipt, it delivers the information to the appropriate 9-1-1 database management services provider, or if the CTU is the appropriate 9-1-1 database management services provider, it places the information in the 9-1-1 database.

- (II) For purposes of this clause, the information sent by a CTU to the 9-1-1 database management services provider and the information used by the 9-1-1 database management services provider ~~must~~shall be maintained in a fashion to ensure that ~~the information~~is accurate at a percentage as close to 100% as possible. For purposes of this clause, the term “accurate” ~~“Accurate”~~ means a record that correctly routes a 9-1-1 call and provides correct location information relating to the origination of such call. For purposes of this clause, the term “percentage” ~~“Percentage”~~ means the total number of accurate records in that database divided by the total number of records in that database. In determining the accuracy of records, a CTU ~~is~~shall not be held responsible for erroneous information provided to it by a customer or another CTU.
- (III) An interconnecting CTU must ~~Interconnecting CTUs shall~~ execute confidentiality agreements with ~~each~~ other interconnecting CTUs, as necessary, to prevent the unauthorized disclosure of unpublished or ~~un~~listed numbers. An interconnecting CTU must ~~Interconnecting CTUs shall~~ be allowed access to the ALI database or its equivalent by the appropriate 9-1-1 database management services provider for verification purposes. The appropriate

1 9-1-1 administrative entity ~~must~~shall provide non-
2 discriminatory access to the master street address guide.

3 (iii) ~~Each~~ CTU is responsible for developing a 9-1-1 disaster recovery
4 service restoration plan with input from the appropriate 9-1-1
5 administrative ~~entity~~entities. This plan ~~must~~shall identify the
6 actions to be taken in the event of a network-based 9-1-1 service
7 failure. The goal of such actions ~~is~~shall be the efficient and timely
8 restoration of 9-1-1 service. Each CTU ~~must~~shall notify the
9 appropriate 9-1-1 administrative entity or entities of any changes in
10 the CTU's network-based services and other services that may
11 require changes to the plan.

12 (iv) ~~An interconnecting CTU must~~Interconnecting CTUs shall provide
13 ~~each other interconnecting CTUs~~and the appropriate 9-1-1
14 administrative entity or entities notification of scheduled outages for
15 direct dedicated 9-1-1 trunks at least 48 hours prior to such outages.
16 In the event of unscheduled outages for direct dedicated 9-1-1
17 trunks, ~~each interconnecting CTU must~~interconnecting CTUs shall
18 provide ~~each other interconnecting CTUs~~and the appropriate 9-1-1
19 administrative ~~entity or entities~~ immediate notification of such
20 outages.

21 (v) Each NCTU's rates for 9-1-1 service to a public safety answering
22 point ~~is~~shall be presumed to be reasonable if they do not exceed the
23 rates charged by the ILEC for similar service.

(vi) Unless otherwise determined by the commission, nothing in this rule, any interconnection agreement, or any commercial agreement may be interpreted to supersede the appropriate 9-1-1 administrative entity's authority to migrate to newer functionally equivalent IP-based 9-1-1 systems or NG9-1-1 systems or the 9-1-1 administrative entity's authority to require the removal of unnecessary direct dedicated 9-1-1 trunks, circuits, databases, or functions.

(I) For purposes of this clause, "unnecessary direct dedicated 9-1-1 trunks" means those dedicated 9-1-1 trunks that generally would be part of a local interconnection arrangement but for: the CTU's warrant in writing that the direct dedicated 9-1-1 trunks are unnecessary and all 9-1-1 traffic from the CTU will be accommodated by another 9-1-1 service arrangement that has been approved by the appropriate 9-1-1 administrative ~~entity or entities~~; and written approval from the appropriate 9-1-1 administrative ~~entity or entities~~ accepting the CTU's warrant. A 9-1-1 network services provider or CTU presented with such written documentation from the CTU and the appropriate 9-1-1 administrative ~~entity or entities~~ must~~shall~~ rely on the warrant of the CTU and the appropriate 9-1-1 entities.

(II)-(III)(No change)

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

1 (C) Operator services. An interconnecting CTU must~~Interconnecting CTUs shall~~
2 negotiate to ensure the interoperability of operator services between networks,
3 including ~~but not limited to~~ the ability of operators on each network to perform such
4 operator functions as reverse billing, line verification, call screening, and call
5 interrupt.

6 (D) White pages telephone directory and directory assistance. An interconnecting CTU
7 must~~Interconnecting CTUs shall~~ negotiate to ensure provision of white pages
8 telephone directory and directory assistance services.

9 (i) Appropriate information of each customer of an NCTU, including
10 telephone numbers. ~~The telephone numbers and other appropriate~~
11 ~~information of the customers of NCTUs must~~shall be included on a
12 non-discriminatory basis in each~~the~~ DCTU's white pages directory
13 associated with the geographic area covered by the white pages
14 telephone directory published by the DCTUs. Similarly, any white
15 pages telephone directory provided to a customer of an NCTU by a
16 NCTU must~~to its customers shall~~ have each corresponding DCTU
17 listing~~listings~~ available on a non-discriminatory basis. Each
18 entry~~The entries~~ of NCTU customers in the DCTU white pages
19 telephone directory must~~shall~~ be interspersed in correct alphabetical
20 sequence among the entries of the DCTU customers and must~~shall~~
21 be no different in style, size, or format than the entries of the DCTU
22 customers, unless requested otherwise by the NCTU. The CTU or
23 its affiliate publishing a white pages telephone directory on behalf

1 of the CTU ~~must~~^{shall} not directly charge the customer of another
2 CTU located in the geographic areas covered by the white pages
3 telephone directory for white pages listings or directory.

4 (ii) ~~Each customer listing~~^{Listings of all customers} located within the
5 local calling area of a NCTU, but not located within the local calling
6 area of the DCTU publishing the white pages telephone directory,
7 ~~must~~^{shall} be included in a separate section of the DCTU's white
8 pages telephone directory at the option of the NCTU.

9 (iii) ~~A CTU must~~^{CTUs shall} provide directory listings and related
10 updates to the CTU or affiliate of the CTU that publishes its affiliate
11 ~~publishing~~ a white pages telephone directory on behalf of the CTU,
12 or to any CTU providing directory assistance, in a timely manner to
13 ensure inclusion in the annual white page listings and provision of
14 directory assistance service that complies with §26.128 of this title.
15 ~~A The CTU or affiliate of the CTU that publishes its affiliate~~
16 ~~publishing~~ a white pages telephone directory on behalf of the CTU
17 ~~must~~^{shall} be responsible for providing all other CTUs with timely
18 information regarding deadlines associated with its published white
19 pages telephone directory.

20 (iv) ~~A CTU must~~^{CTUs shall}, upon request, provide accurate and current
21 subscriber listings (name, address, telephone number) and updates
22 in a readily usable format and in a timely manner, on a non-
23 discriminatory basis, to publishers of yellow pages telephone

1 directory. ~~A CTU must~~CTUs ~~shall~~ not provide listings of
2 subscribers desiring non-listed status for publication purposes.

3 (v) White pages telephone directories ~~must~~shall be distributed to each
4 customer~~all customers~~ located within the geographic area covered
5 by the white pages telephone directory on non-discriminatory terms
6 and conditions by the CTU or affiliate of the CTU that publishes its
7 affiliate publishing the white pages telephone directory.

8 (vi) A CTU or affiliate of the CTU~~its affiliate~~ that publishes a white
9 pages telephone directory on behalf of the CTU ~~must~~shall provide
10 every other CTU a single page ~~per CTU~~in the information section
11 of the white pages telephone directory; for each~~the~~ CTU to convey
12 critical customer contact information regarding emergency services,
13 billing and service information, repair services and other pertinent
14 information. The CTU's pages ~~must~~shall be arranged in
15 alphabetical order. Additional access to the information section of
16 the white pages telephone directory ~~are~~shall be subject to
17 negotiations.

18 (vii) A CTU ~~CTUs~~ must provide information that identifies customers
19 desiring non-listed ~~and/or~~ non-published telephone numbers ~~and/or~~
20 non-published addresses to the CTU or affiliate of the CTU that
21 publishes its affiliate publishing a white pages telephone directory
22 on behalf of the CTU and to the CTU maintaining the directory
23 assistance database. ~~A~~The CTU or affiliate of the CTU that

~~publishes its affiliate publishing~~ a white pages telephone directory on behalf of the CTU ~~must~~ shall not divulge such non-listed and/or non-published telephone numbers or addresses and the CTU maintaining the directory assistance database ~~must~~ shall not divulge such non-published telephone numbers or addresses.

(viii) CTUs ~~must~~ shall provide each other non-discriminatory access to directory assistance databases.

(2) At a minimum, interconnecting CTUs ~~must~~ shall negotiate to ensure the following:

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

(F) non-discriminatory handling, including billing, of mass announcement/audiotext calls including, ~~but not limited to,~~ 900 and 976 calls;

(G)-(I) (No change.)

(f) **Negotiations.**

(1) ~~A negotiating party, including a CTU, must~~ CTUs and other negotiating parties shall engage in good-faith negotiations and cooperative planning as necessary to achieve mutually agreeable interconnection arrangements.

(2) Before terminating its first commercial telephone call, ~~each~~ CTU requesting interconnection ~~must~~ shall negotiate with each CTU or other negotiating party that is necessary to complete all telephone calls, including local service calls and EAS or ELCS calls, made by or placed to ~~a customer~~ the customers of the requesting CTU. Upon request, DCTUs within major metropolitan calling areas will contact

other CTUs and arrange meetings, within 15 days of such request, ~~in an effort to~~ facilitate negotiations and provide a forum for discussions of network efficiencies and intercompany billing arrangements.

- (3) Unless the negotiating parties establish a mutually agreeable date, negotiations are deemed to begin on the date when the CTU or other negotiating party from which interconnection is being requested receives the request for interconnection from the CTU seeking interconnection. The request ~~must~~shall:

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

- (6) At any point during the negotiations required under this subsection, ~~any~~ CTU or negotiating party may request the commission ~~designee~~designee(s) to participate in the negotiations and to mediate any differences arising in the course of the negotiation.

- (7) ~~An interconnecting CTU may~~Interconnecting CTUs may, by written agreement, accelerate the requirements of this subsection with respect to a particular interconnection agreement except that the requirements of ~~subparagraph~~subsection (g)(1)(A) of this section ~~must~~shall not be accelerated.

- (8) Any disputes arising under or pertaining to negotiated interconnection agreements ~~must~~may be resolved ~~in accordance with~~pursuant to Chapter 21, Subchapter E, of this title (relating to Post-Interconnection Agreement Dispute Resolution).

(g) **Compulsory arbitration process.**

- (1) A negotiating CTU that is unable to reach mutually agreeable terms, rates, and/or conditions for interconnection with any CTU or negotiating party may petition the

1 commission to arbitrate any unresolved issues. ~~To~~~~In order to~~ initiate the arbitration
2 procedure, a negotiating CTU:

3 (A) ~~must~~~~shall~~ file its petition with the commission on or between 135 and
4 160 days ~~during the period from the 135th to the 160th day (inclusive)~~ after
5 the date on which its request for negotiation under subsection (f) of this
6 section was received by the other CTU involved in the negotiation;

7 (B) ~~must~~~~shall~~ provide the identity of each CTU ~~and/or~~ negotiating party with
8 which agreement cannot be reached but whose cooperation is necessary to
9 complete all telephone calls made by or placed to the customers of the
10 requesting CTU;

11 (C) ~~must~~~~shall~~ provide all relevant documentation concerning the unresolved
12 issues;

13 (D) ~~must~~~~shall~~ provide all relevant documentation concerning the position of
14 each of the negotiating parties with respect to those issues;

15 (E) ~~must~~~~shall~~ provide all relevant documentation concerning any other issue
16 discussed and resolved by the negotiating parties; and

17 (F) ~~must~~~~shall~~ send a copy of the petition and any documentation to the CTU or
18 negotiating party with which agreement cannot be reached, not later than
19 the day on which the commission receives the petition.

20 (2) A non-petitioning party to a negotiation under subsection (f) of this section may
21 respond to the other party's petition and provide such additional information ~~as it~~
22 ~~wishes~~ within 25 days after the commission receives the petition.

(3) The compulsory arbitration process ~~must~~^{shall} be completed ~~not~~^{not} later than nine months after the date on which a CTU receives a request for interconnection under subsection (f) of this section.

(4) Any disputes arising under or pertaining to arbitrated interconnection agreements ~~must~~^{may} be resolved in accordance with~~pursuant to~~ Chapter 21, Subchapter E of this title.

(h) **Filing of rates, terms, and conditions.**

(1) Rates, terms and conditions resulting from negotiations, compulsory arbitration process, and statements of generally available terms.

(A) A CTU from which interconnection is requested ~~must~~^{shall} file each~~any~~ agreement, adopted by negotiation or by compulsory arbitration, with the commission. The commission ~~will~~^{shall} make such an agreement available for public inspection and copying within ten days after the agreement is approved by the commission in accordance with~~pursuant to~~ subparagraphs (C) and (D) of this paragraph.

(B) An ILEC serving greater than five million access lines may prepare and file with the commission, a statement of terms and conditions that the ILEC~~it~~ generally offers within the state in accordance with~~pursuant to~~ 47 U.S.C. United States Code §252(f) (1996). The commission ~~will~~^{shall} make such a statement available for public inspection and copying within ten days after the statement is approved by the commission in accordance with~~pursuant to~~ subparagraph (E) of this paragraph.

(C) The commission ~~will~~shall reject an agreement, in whole or in part, ~~(or any portion thereof)~~ adopted by negotiation if it finds that:

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

(D) The commission ~~will~~shall reject an agreement, in whole or in part, ~~(or any portion thereof)~~ adopted by compulsory arbitration; under subsection (g) of this section, in accordance with~~pursuant to~~ guidelines found in 47 ~~U.S.C. United States Code~~ §252(e)(2)(B) (1996).

(E) The commission ~~will~~shall review the statement of generally available terms filed under subparagraph (B) of this paragraph, pursuant to guidelines found in 47 United States Code §252(f) (1996). The submission or approval of a statement under this paragraph ~~does~~shall not relieve an ILEC serving greater than five million access lines of its duty to negotiate the terms and conditions of an agreement in accordance with~~pursuant to~~ 47 ~~U.S.C. United States Code~~ §251(c)(1) (1996).

(2) Rates, terms ~~and~~/or conditions among DCTUs. Within 15 days of a request from a CTU negotiating interconnection arrangements with a DCTU, a non-redacted version of any agreement reflecting the rates, terms, and conditions between ~~and~~/or among DCTUs which relate to interconnection arrangements for similar traffic must~~shall~~ be disclosed to the CTU, subject to commission-approved non-disclosure or protective agreement. A non-redacted version of the same agreement must~~shall~~ be disclosed to commission staff at the

same time if requested, subject to commission-approved non-disclosure or protective agreement.

(i) Customer safeguards.

(1) **Requirements for provision of service to customers.** Nothing in this section or in ~~a~~ the CTU's tariffs ~~precludes~~ shall be interpreted as precluding a customer of ~~any~~ CTU from purchasing local exchange service from more than one CTU at a time. A CTU is prohibited from connecting, disconnecting, or moving ~~No CTU shall connect, disconnect, or move~~ any wiring or circuits on the customer's side of the demarcation point without the customer's express authorization as specified in §26.130 of this title, (relating to Selection of Telecommunications Utilities).

(2) **Requirements for CTUs ceasing operations.** ~~If in the event that a CTU ceases its operations, the CTU is responsible for notifying it is the responsibility of the CTU to notify~~ the commission and each customer of the CTU ~~all of the CTU's customers~~ at least 61 working days in advance that each customer's ~~their~~ service will be terminated. The notification must ~~shall~~ include a listing of all alternative service providers available to customers in the exchange and shall specify the date on which service will be terminated.

(3) **Requirements for service installations.** A DCTU ~~DCTUs~~ that interconnect with an NCTU ~~NCTUs~~ shall be responsible for meeting the installation of service requirements under §26.54 of this title in providing service to the NCTU. NCTUs must ~~shall~~ make a good-faith effort to meet the requirements for installation in

§26.54 of this title, and may negotiate with the DCTU to establish a procedure to meet this goal.

(A) For those customers for whom the NCTU provides dial tone but not the local loop, 95% of the NCTU's service orders ~~must~~shall be completed in no more than ten working days from request for service, unless a later date is agreed to by the customer.

(B) For those customers for whom the NCTU does not provide dial tone and resells the telephone services of a DCTU, 95% of the NCTU's service orders ~~must~~shall be completed in no more than seven working days from request for service, unless the customer agrees to a later date.

(C) For those customers where the NCTU uses facilities other than a ~~DCTU's~~DCTUs² resale facilities obtained through Public Utility Regulatory Act §60.041, the NCTU ~~must~~shall complete service orders within 30 calendar days from ~~the~~request ~~for~~of service, unless a later date is agreed to by the customer.

(D) ~~A~~The DCTU ~~must~~shall not discriminate between the DCTU's customers and the customers of an NCTU~~its customers and NCTUs~~ if the DCTU is able to install service in less than the time permitted under §26.54 of this title.

1 **§26.276. Unbundling.**

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

4
5 **(c) Unbundling requirements.**

6 (1) **Unbundling in accordance with~~pursuant to~~ current FCC requirements.** Each
7 ILEC that is subject to this section ~~must~~shall unbundle as specified in
8 subparagraphs (A) and (B) of this paragraph. An ILEC with interstate tariffs in
9 effect ~~must~~shall unbundle its network or /services under the same terms and
10 conditions, except for price, as it unbundles its interstate services, unless ordered
11 otherwise by the commission. The ILEC ~~must~~shall also not impose a charge or rate
12 element that is not included in its interstate tariffs for these unbundled rate
13 elements. Nothing in this paragraph~~herein~~ precludes the commission from
14 requiring further unbundling of local exchange company services, including the
15 services unbundled in accordance with~~pursuant to~~ this paragraph.

16 (A) The ILEC's network ~~must~~shall be unbundled to the extent ordered by the
17 FCC in compliance with its open network architecture requirements; and

18 (B) Signaling for tandem switching ~~must~~shall be unbundled to the extent
19 ordered by the FCC in compliance with CC Docket Number 91-141, Third
20 Report and Order, In the Matter of Expanded Interconnection with Local
21 Telephone Company Facilities, Transport Phase II.

22 (2) **Unbundling in accordance with~~pursuant to~~ future FCC requirements.** An
23 ILEC ~~must~~shall unbundle its network or /services ~~as defined in the term~~

1 ~~“unbundling” in §26.5 of this title (relating to Definitions)~~ for intrastate services to
2 the extent ordered, in the future, by the FCC for interstate services. An ILEC with
3 interstate tariffs in effect ~~must~~shall unbundle these services under the same terms
4 and conditions, except for price, as it unbundles its interstate services, unless
5 ordered otherwise by the commission. The ILEC ~~must~~shall also not impose a
6 charge or rate element that is not included in its interstate tariffs for unbundling.
7 Nothing ~~in this paragraph~~herein precludes the commission from requiring further
8 unbundling of local exchange company services, including the services unbundled
9 in accordance with~~pursuant to~~ this paragraph.

11 (d) **Costing and pricing of services in compliance with this section.**

12 (1) **Cost standard.** Services unbundled in compliance with this section ~~must~~shall be
13 subject to the following cost standard.

14 (A) The cost standard for unbundled services ~~must~~shall be the long run
15 incremental costs (LRIC) of providing the service.

16 (B) Any ILEC subject to §26.214 of this title (relating to Long Run Incremental
17 Cost (LRIC) Methodology for Services provided by Certain Incumbent
18 Local Exchange Companies (ILECs)) or §26.215~~23.91~~ of this title (relating
19 to Long Run Incremental Cost Methodology for Dominant Certificated
20 Telecommunications Utility Services), as applicable, must~~shall~~ file LRIC
21 studies in accordance with~~pursuant to~~ that rule for unbundled components
22 specified in paragraph~~subsection~~ (c)(1) of this section.

(C) For any ILEC that is subject to §26.214 or §26.21523.91 of this title, the cost standard for unbundled services required under subsection (c)(2) of this section ~~must~~shall be the long run incremental costs as prescribed by §26.214 or pursuant to §26.21523.91 of this title, as applicable.

(D) The long run incremental cost standard ~~does must~~shall not apply if the ILEC proposes rates that are the same as the rates in effect for the carrier's interstate provision of the same or equivalent unbundled service or if the ILEC adopts rates of another ILEC in accordance with subparagraph~~pursuant to paragraph~~ (2)(B) of this subsection.

(2) **Pricing standard.** Services unbundled in compliance with this section ~~must~~shall be subject to the following pricing standard.

(A) Any ILEC may propose rates, without cost justification, that are at parity with the rates in effect for the carrier's interstate provision of the same or equivalent unbundled service. The ILEC ~~must~~shall amend its intrastate rates, terms and conditions to be consistent with subsequent revisions in its interstate tariffs providing for unbundling in accordance with the~~pursuant to~~ filing requirements established in subsection (f)(4) of this section.

(B) In addition to the provision in subparagraph (A) of this paragraph, ILECs that are not subject to §26.214 or §26.21523.91 of this title may adopt the rates of another ILEC that are developed in accordance with~~pursuant to~~ the requirements of this section.

(C) If an ILEC proposes rates that are not at parity with the rates in effect for the carrier's interstate provision of the same or equivalent unbundled service

1 or does not adopt the rates of another ILEC ~~in accordance with~~ pursuant to
2 subparagraph (B) of this paragraph, the following requirements shall apply
3 to any service approved under this section:

4 (i) Unless waived or modified by the presiding officer, the service
5 ~~must~~ shall be offered in every exchange served by the ILEC, except
6 exchanges in which the ILEC's facilities do not have the technical
7 capability to provide the service.

8 (ii) If the sum of the rates of the new unbundled components is equal to
9 the price of the original bundled service and if the ratio of the rate
10 of each unbundled component to its LRIC is the same for each
11 unbundled component, there ~~is~~ shall be a rebuttable presumption that
12 the rate of an unbundled component is reasonable.

13 (iii) The proposed rates and terms of the service ~~must~~ shall not be
14 unreasonably preferential, prejudicial, or discriminatory, subsidized
15 directly or indirectly by regulated monopoly services, or predatory
16 or anticompetitive.

17 (D) Rates based upon the new LRIC cost studies required under
18 ~~subparagraph paragraph~~ (1)(B) of this subsection ~~are~~ shall be subject to
19 ~~§26.214 or §26.215, the pricing rulemaking referred to in §23.91(p) of this~~
20 title, as applicable, to the same extent as any other service offered by an
21 ILEC subject to the applicable provision ~~the pricing rule~~.

(e) **Basket assignment.** An ILEC electing for incentive regulation under PURA Chapter 58 ~~must~~shall, in its compliance tariff filed in accordance with~~pursuant to~~ subsection (f) of this section, include a proposal and rationale for designating the unbundled components as basic services or non-basic services.

(f) **Filing requirements.**

(1) **Initial filing to implement subsection (c)(1) of this section in effect for ILECs serving one million or more access lines.** An ILEC serving one million or more access lines ~~must~~shall file initial tariff amendments to implement the provisions of subsection (c)(1) of this section not later than 60 days from the effective date of this section. The proposed effective date of such filings ~~must~~shall be not later than 30 days after the filing date, unless suspended. Tariff revisions filed in accordance with~~pursuant to~~ this paragraph must ~~subsection shall~~ not be combined in a single application with any other tariff revision.

(2) **Filings to comply with subsection (c)(2) of this section for ILECs serving one million or more access lines.** An ILEC serving one million or more access lines ~~must~~shall file tariff amendments to implement the provisions of subsection (c)(2) of this section, within 60 days of the effective date of its interstate tariff providing for unbundling. The proposed effective date of such filings ~~must~~shall be not later than 30 days after the filing date, unless suspended. Tariff revisions filed in accordance with~~pursuant to~~ this paragraph must ~~subsection shall~~ not be combined in a single application with any other tariff revision.

(3) **Filings to implement subsections (c)(1) and (2) of this section for ILECs serving fewer than one million access lines.** If an ILEC serving fewer than one million access lines receives a bona fide request, the ILEC must ~~shall~~ unbundle its network or /services in accordance with ~~pursuant to~~ the bona fide request within 90 days from the date of receipt of the bona fide request or has ~~shall have~~ the burden of demonstrating the reasons for not unbundling in accordance with ~~pursuant to~~ the bona fide request.

(4) **Filings to comply with subsection (d)(2)(A) of this section.** An ILEC proposing rates pursuant to subsection (d)(2)(A) must ~~shall~~ file tariff amendments to implement the revisions in its interstate tariffs providing for unbundling, within 30 days of the effective date of its interstate tariff providing for unbundling. The proposed effective date of such filings must ~~shall~~ be not later than 30 days after the filing date, unless suspended. Tariff revisions filed in accordance with ~~pursuant to~~ this paragraph must ~~shall~~ not be combined in a single application with any other tariff revision.

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

(1) **Notice of Application.** The presiding officer may require notice to be provided to the public as required by Chapter 22, Subchapter D of this title (relating to Notice). The notice must ~~shall~~ include, at a minimum, a description of the service, the proposed rates and other terms of the service, the types of customers likely to be affected if the service is approved, the probable effect on ILEC's revenues if the service is approved, the proposed effective date for the service, 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). Requests for further information should be mailed to the Public Utility Commission of Texas, PO Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's Office of Customer Protection 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 at (512) 936-7136 or may reach the commission's toll free number by calling Relay Texas at (800) 735-2989(800) 735-2988."

(2) **Contents of application for an ILEC serving one million or more access lines that is required to comply with paragraphs (f)(1), (2), and (4) of this section.**

An ILEC ~~must~~shall request approval of an unbundled service by filing an application that complies with the requirements of this section. ~~AIn addition to copies required by other commission rules, one copy of the application must~~shall be delivered to the commission's ~~Office of Regulatory Affairs, Legal Division, and one copy to the~~ Office of Public Utility Counsel. The application ~~must~~shall contain the following information:

(A) a description of the proposed service and the rates, terms and conditions, under which the service is proposed to be offered and a demonstration that the proposed rates, terms and conditions comply ~~are in conformity with~~ the requirements in subsections (c), (d), and (e) of this section, as applicable;

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

(F) projection of revenues, demand, and expenses demonstrating that in the second year after the service is first offered, the proposed rates will generate sufficient annual revenues to recover the annual long run incremental costs of providing the service, as well as a contribution for joint and/or common costs, if the rates are not at parity with the carrier's interstate rates;

(G)-(I) (No change.)

(3) **Contents of application for an ILEC serving fewer than one million access lines that is required to comply with paragraph~~subsection~~ (f)(3) and (4) of this section.** An ILEC must~~shall~~ file with the commission an application complying with the requirements of this section. ~~A~~In addition to copies required by other ~~commission rules, one~~ copy of the application must~~shall~~ be delivered to the commission's Office of Regulatory Affairs, Legal Division, and one copy must~~shall~~ be delivered to the Office of Public Utility Counsel. The application must~~shall~~ contain the following:

(A) contents of the application required by subparagraph~~paragraph~~ (2)(A), (B), (C), (H), and (I) of this subsection;

(B) contents of the application required by subparagraph~~paragraph~~ (2)(D), (E), (F), and (G) of this subsection, if the rates are not at parity with the carrier's interstate rates or the rates of another ILEC;

(C) a description of the proposed service~~service(s)~~ and the rates, terms, and conditions under which the service ~~is~~~~service(s) are~~ proposed to be offered and an affidavit from the general manager or an officer of the ILEC approving the proposed service;

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

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

(1) **Administrative review.** An application considered under this section is eligible for administrative review~~may be reviewed administratively~~ unless the 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 application. The effective date ~~must~~shall be according to the requirements in subsection (f) of this section.

(B) The application ~~will~~shall be ~~reviewed~~examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant ~~will~~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 application ~~will~~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 30 days determined from the 30th from the 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 the Office of the Public Utility Counsel (OPUC) may submit requests for information to the ILEC.

~~Answers~~ Six copies of all answers to such requests for information ~~must~~ shall be filed with ~~the commission~~ Central Records and ~~a one~~ copy ~~must~~ shall be provided to ~~OPUC the Office of Public Utility Counsel~~ within ten days after receipt of the request by the 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 ~~must~~ 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 application, the presiding officer ~~will~~ shall issue an order approving, denying, or docketing the ILEC's application.

(2) **Approval or denial of application.** The application ~~will~~ shall be approved by the presiding officer if the proposed tariff meets the requirements in 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 ~~will~~ ~~must~~ docket the application.

(3) **Standards for docketing.** The application may be docketed in accordance with ~~pursuant to~~ §22.33(b) of this title (relating to Tariff Filings).

(4) **Review of the application after docketing.** If the application is docketed, the operation of the proposed rate schedule ~~will~~ shall be automatically suspended to a date 120 days after the applicant has filed ~~all~~ of its direct testimony and exhibits, or

1 155 days after the effective date, whichever is later. Affected persons may move
2 to intervene in the docket, and the presiding officer may schedule a hearing on the
3 merits. The application ~~will~~shall be processed in accordance with the
4 commission's rules applicable to docketed cases.

5 (5) **Interim rates.** For good cause, interim rates may be approved after docketing. If
6 the service requires substantial initial investment by customers before they may
7 receive the service, interim rates ~~will~~shall be approved only if the ILEC shows, in
8 addition to good cause, that it will notify each customer prior to purchasing the
9 service that the customer's investment may be at risk due to the interim nature of
10 the service.

11 (i) **Commission processing of waivers.** Any request for modification or waiver of the
12 requirements of this section ~~must~~shall include a complete statement of the ILEC's
13 arguments and factual support for that request. The presiding officer ~~will~~shall rule on the
14 request expeditiously.

15

1 **§26.403. Texas High Cost Universal Service Plan (THCUSP).**

2
3 (a) (No change.)

4
5 (b) **Application.** This section applies to telecommunications providers that have been
6 designated ETPs by the commission in accordance with~~pursuant to~~ §26.417 of this title
7 (relating to Designation as Eligible Telecommunications Providers to Receive Texas
8 Universal Service Funds (TUSF)).

9
10 (c) **Definitions.** The following words and terms when used in this section ~~shall~~ have the
11 following meaning unless the context clearly indicates otherwise:

12 (1) **Business line** -- The telecommunications facilities providing the communications
13 channel that serves a single-line business customer's service address. For the
14 purpose of this definition, a single-line business line is one to which multi-line
15 hunting, trunking, or other special capabilities do not apply. For a line served by
16 an ILEC, a business line is a line served in accordance with~~pursuant to~~ the ILEC's
17 business service tariff or a package that includes such a tariffed service. For a line
18 served by an ILEC in accordance with~~pursuant to~~ a customer specific contract or
19 that is otherwise not served in accordance with~~pursuant to~~ a tariff, to qualify as a
20 business line, the service must be provided in accordance with~~pursuant to~~ a
21 customer application, subscriber agreement, or contract entered into by a public or
22 private organization of any character, or a representative or agent of such entity,
23 irrespective of the person or entity in actual possession of the telephone device. For
24 a line that is served by an ETP other than an ILEC, to qualify as a business line, the

1 service must be provided ~~in accordance with~~pursuant to a customer application,
2 subscriber agreement, or contract entered into by a public or private organization
3 of any character, or a representative or agent of such entity, irrespective of the
4 person or entity in actual possession of the telephone device.

5 (2) **Eligible line** -- A residential line or a single-line business line over which an ETP
6 provides the service supported by the THCUSP through its own facilities, purchase
7 of unbundled network elements (UNEs), or a combination of its own facilities and
8 purchase of UNEs. An eligible line may be a business line or a residential line but
9 ~~cannot~~shall not be both.

10 (3) **Eligible telecommunications provider (ETP)** -- A telecommunications provider
11 designated by the commission ~~in accordance with~~pursuant to §26.417 of this title.

12 (4) (No change.)

13 (5) **Residential line** -- The telecommunications facilities providing the
14 communications channel that serves a residential customer's service address. For
15 the purpose of this definition, a residential line is one to which multi-line hunting,
16 trunking, or other special capabilities do not apply. A line that qualifies as a
17 business line ~~does~~shall not qualify as a residential line.

18 (6) **Service Address** -- For the purposes of this section, a business or residential
19 customer's service address is defined using the following criteria:

20 (A) A service address is the unique physical street address, including any suite
21 or unit number, where a line is provided to a customer, except as provided
22 in clauses (i)-(ii) and subparagraph (B) of this paragraph.

(i) If no unique physical street address is available, a physical 911 address ~~must~~shall be used.

(ii) If no unique physical street address and no physical 911 address are available, the business or residential customer's service address ~~must~~shall be an area of land under common operation or use as defined by a deed, state permit, lease name, or licensed or registered field of operation, which ~~must~~shall be described by an ETP using GPS coordinates. Multiple buildings within a single area of land under common operation or use ~~must~~shall not qualify as separate service addresses, even if the GPS coordinates for each building are different.

(B) (No change.)

(d) **Service to be supported by the THCUSP.** The THCUSP ~~must~~shall support basic local telecommunications services provided by an ETP in high cost rural areas of the state. Local measured residential service, if chosen by the customer and offered by the ETP, ~~must~~shall also be supported.

(1) **Initial determination of the definition of basic local telecommunications service.** Basic local telecommunications service ~~must~~shall consist of the following:

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

(2) **Subsequent determinations.**

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

(e) **Criteria for determining amount of support under THCUSP.** The commission ~~will~~shall determine the amount of per-line support to be made available to ETPs in each eligible wire center in accordance with this section. The amount of support available to each ETP ~~must~~shall be calculated using the base support amount as of the effective date of this section and applying the annual reductions as described in this subsection. As used in this subsection, “basic local telecommunications service” refers to services available to residential customers only, and “exchange” or “wire center” refer to regulated exchanges or wire centers only.

(1) **Determining base support amount available to ILEC ETPs.** The initial annual base support amount for an ILEC ETP ~~must~~shall be the annualized monthly THCUSP support amount for the month preceding the effective date of this section, less the 2011 amount of support disbursed to the ILEC ETP from the federal universal service fund for High Cost Loop, High Cost Model, Safety Net Additive, and Safety Valve components of the frozen high-cost support as determined by the Universal Service Administration Company ~~in accordance with~~pursuant to 47 C.F.R. §54.312(a). The initial per-line monthly support amount for a wire center ~~must~~shall be the per-line support amount for the wire center for the month preceding the effective date of this section, less each wire center’s pro rata share of one-twelfth of the 2011 amount of support disbursed to the ILEC ETP from the federal universal service fund for High Cost Loop, High Cost Model, Safety Net Additive, and Safety Valve components of the frozen high-cost support determined by the Universal Service Administration Company ~~in accordance with~~pursuant to

47 C.F.R §54.312(a). The initial annual base support amount ~~must~~shall be reduced annually as described in paragraph (3) of this subsection.

(2) **Determination of the reasonable rate.** The reasonable rate for basic local telecommunications service ~~will~~shall be determined by the commission in a contested case proceeding. To the extent that an ILEC ETP's existing rate for basic local telecommunications service in any wire center is less than the reasonable rate, the ILEC ETP may, over time, increase its rates for basic local telecommunications service to an amount not to exceed the reasonable rate. The increase to the existing rate ~~must~~shall not in any one year exceed an amount to be determined by the commission in the contested case proceeding. An ILEC ETP may, in its sole discretion, accelerate its THCUSP reduction in any year by as much as 10% and offset such reduction with a corresponding local rate increase in order to produce rounded rates. In no event ~~will~~shall any such acceleration obligate the ETP to reduce its THCUSP support in excess of the total reduction obligation initially calculated under paragraph (3) of this subsection.

(3) **Annual reductions to THCUSP base support and per-line support recalculation.** As part of the contested case proceeding referenced in paragraph (2) of this subsection, each ILEC ETP ~~must~~shall, using line counts as of the end of the month preceding the effective date of this rule, calculate the amount of additional revenue that would result if the ILEC ETP were to charge the reasonable rate for basic local telecommunications service to all residential customers for those services where the price, or imputed price, are below the reasonable rate. Lines in exchanges for which an application for deregulation is pending as of June 1, 2012

1 ~~must~~shall not be included in this calculation. If the application for deregulation for
2 any such exchanges subsequently is denied by the commission, the ILEC ETP
3 ~~must~~shall, within 20 days of the final order denying such application, submit
4 revised calculations including the lines in those exchanges for which the application
5 for deregulation was denied. Without regard to whether an ILEC ETP increases its
6 rates for basic local telecommunications service to the reasonable rate, the ILEC
7 ETP's annual base support ~~must~~shall be reduced on January 1 of each year for four
8 consecutive years, with the first reduction occurring on January 1, 2013. The ETP's
9 annual base support amount ~~must~~shall be reduced by 25% of the additional revenue
10 calculated ~~in accordance with~~pursuant to this paragraph in each year of the
11 transition period. This reduction ~~must~~shall be accomplished by reducing support
12 for each wire center served by the ETP proportionally.

13 (4) **Portability.** The support amounts established ~~in accordance with~~pursuant to this
14 section are applicable to all ETPs and are portable with the customer.

15 (5) **Limitation on availability of THCUSP support.**

16 (A) THCUSP support ~~must~~shall not be provided in a wire center in a
17 deregulated market that has a population of at least 30,000.

18 (B) (No change.)

19 (6) **Total Support Reduction Plan.** Within 10 days of the effective date of this
20 section, an ILEC may elect to participate in a Total Support Reduction Plan (TSRP)
21 as prescribed in this subsection, by filing a notification of such participation with
22 the commission. The TSRP would serve as an alternative to the reduction plan

prescribed in paragraph (3) of this subsection. The TSRP will be implemented as follows:

(A) For an ILEC making this election, the ILEC ~~must~~shall reduce its THCUSP funding in accordance with paragraph (3) of this subsection with the exception that THCUSP reductions due to exchange deregulation may be credited against the electing ILEC's annual reduction obligation in the calendar year immediately following such deregulation.

(B) In no event ~~will~~shall an electing ILEC seek or receive THCUSP funding after January 1, 2017 even if ~~the electing ILEC~~it would otherwise be entitled to such funding as of this date.

(f) **Support Reduction.** Subject to the provisions of §26.405(f)(3) of this title (relating to Financial Need for Continued Support), the commission ~~will~~shall adjust the support to be made available from the THCUSP according to the following criteria.

(1) For each ILEC that is not electing under subsection (e)(6) of this section and that served greater than 31,000 access lines in this state on September 1, ~~2022~~2013, or a company or cooperative that is a successor to such an ILEC, the monthly per-line support that the ILEC is eligible to receive for each exchange on December 31, ~~2023~~2016 from the THCUSP is reduced:

(A) on January 1, ~~2024~~2017, to 75 percent of the level of support the ILEC ~~was~~is eligible to receive on December 31, ~~2023~~2016;

(B) on January 1, ~~2025~~2018, to 50 percent of the level of support the ILEC ~~was~~is eligible to receive on December 31, ~~2023~~2016; ~~and~~

(C) on January 1, ~~2026~~2019, to 25 percent of the level of support the ILEC ~~was~~
eligible to receive on December 31, ~~2023~~2016; and

(D) on January 1, 2027, to zero percent of the level of support the ILEC was
eligible to receive on December 31, 2023.

(2) An ILEC subject to this subsection may file a petition to show financial need for
continued support, ~~in accordance with~~pursuant to §26.405(f)(1) of this title, ~~on or~~
before January 1, ~~2027~~2019.

(g) **Reporting requirements.** An ETP that receives support ~~in accordance with~~pursuant to
this section ~~must~~shall report the following information:

(1) **Monthly reporting requirement.** An ETP ~~must~~shall report the following to the
TUSF administrator on a monthly basis:

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

(2) **Quarterly filing requirements.** An ETP ~~must~~shall file quarterly reports with the
commission showing actual THCUSP receipts by study area.

(A) Reports ~~must~~shall be filed electronically in the project number assigned by
the commission's central records office no later than 3:00 p.m. on the 30th
calendar day after the end of the calendar quarter reporting period.

(B) Each ETP's reports ~~must~~shall be filed on an individual company basis;
reports that aggregate the disbursements received by two or more ETPs will
not be accepted as complying with the requirements of this paragraph.

(C) All reports filed ~~in accordance with~~pursuant to paragraph (3) of this
subsection ~~must~~shall be publicly available.

1 (3) **Annual reporting requirements.** An ETP ~~must~~shall report annually to the TUSF
2 administrator that it is qualified to participate in the THCUSP.

3 (4) **Other reporting requirements.** An ETP ~~must~~shall report any other information
4 that is required by the commission or the TUSF administrator, including any
5 information necessary to assess contributions and disbursements from the TUSF.

6

1 **§26.404. Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service**
2 **Plan.**

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

5
6 (c) **Definitions.** The following words and terms when used in this section shall have the
7 following meaning unless the context clearly indicates otherwise:

8 (1) **Business line** -- The telecommunications facilities providing the communications
9 channel that serves a single-line business customer's service address. For the
10 purpose of this definition, a single-line business line is one to which multi-line
11 hunting, trunking, or other special capabilities do not apply. For a line served by
12 an ILEC, a business line is a line served in accordance with~~pursuant to~~ the ILEC's
13 business service tariff or a package that includes such a tariffed service. For a line
14 served by an ILEC in accordance with~~pursuant to~~ a customer specific contract or
15 that is otherwise not served in accordance with~~pursuant to~~ a tariff, to qualify as a
16 business line, the service must be provided in accordance with~~pursuant to~~ a
17 customer application, subscriber agreement, or contract entered into by a public or
18 private organization of any character, or a representative or agent of such entity,
19 irrespective of the person or entity in actual possession of the telephone device. For
20 a line that is served by an ETP other than an ILEC, to qualify as a business line, the
21 service must be provided in accordance with~~pursuant to~~ a customer application,
22 subscriber agreement, or contract entered into by a public or private organization
23 of any character, or a representative or agent of such entity, irrespective of the
24 person or entity in actual possession of the telephone device.

(2) **Eligible line** -- A residential line or a single-line business line over which an ETP provides the service supported by the Small and Rural ILEC Universal Service Plan (SRILEC USP) through its own facilities, purchase of unbundled network elements (UNEs), or a combination of its own facilities and purchase of UNEs. An eligible line may be a business line or a residential line but ~~cannot~~shall not be both.

(3) **Eligible telecommunications provider (ETP)** -- A telecommunications provider designated by the commission ~~in accordance with~~pursuant to §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)).

(4) (No change.)

(5) **Residential line** -- The telecommunications facilities providing the communications channel that serves a residential customer's service address. For the purpose of this definition, a residential line is one to which multi-line hunting, trunking, or other special capabilities do not apply. A line that qualifies as a business line ~~does~~shall not qualify as a residential line.

(6) **Service Address** -- For the purposes of this section, a business or residential customer's service address is defined using the following criteria:

(A) A service address is the unique physical street address, including any suite or unit number, where a line is provided to a customer, except as provided in clauses (i)-(ii) and subparagraph (B) of this paragraph.

(i) If no unique physical street address is available, a physical 911 address ~~must~~shall be used.

(ii) If no unique physical street address and no physical 911 address are available, the business or residential customer's service address ~~must~~shall be an area of land under common operation or use as defined by a deed, state permit, lease name, or licensed or registered field of operation, which ~~must~~shall be described by an ETP using GPS coordinates. Multiple buildings within a single area of land under common operation or use ~~do~~shall not qualify as separate service addresses, even if the GPS coordinates for each building are different.

(B) (No change.)

(7) (No change.)

(d) **Service to be supported by the SRILEC USP~~Small and Rural ILEC Universal Service Plan~~.** The ~~SRILEC USP~~Small and Rural ILEC Universal Service Plan ~~must~~shall support the provision by ETPs of basic local telecommunications service, as defined in §26.403(d) of this title (relating to Texas High Cost Universal Service Plan (THCUSP)) and is limited to those services carried on all residential lines and the first five single-line business lines at a business customer's service address for which a flat rate plan is an available option.

(e) **Criteria for determining amount of support under SRILEC USP~~Small and Rural ILEC Universal Service Plan~~.** The commission ~~will~~shall determine the amount of per-line support to be made available to ETPs in each eligible study area in accordance with this section. The amount of support available to each ETP ~~must~~shall be calculated using