

The Public Utility Commission of Texas (commission) adopts new §26.109 relating to Standards for Granting of Certificates of Operating Authority (COAs), §26.111 relating to Standards for Granting of Service Provider Certificates of Operating Authority (SPCOAs), and §26.113 relating to Amendment of Certificates of Operating Authority (COAs) or Service Provider Certificates of Operating Authority (SPCOAs) with changes to the proposed text as published in the April 2, 1999 *Texas Register* (24 TexReg 2586). These sections establish commission rules as required by the Public Utility Regulatory Act (PURA), Chapter 54, Subchapters C and D. These sections are necessary to establish financial and technical standards for the award of certificates of operating authority and service provider certificates of operating authority and will establish the procedure for amending certificates of operating authority and service provider certificates of operating authority. These new sections are adopted under Project Number 19582.

The Appropriations Act of 1997, HB 1, Article IX, Section 167 (Section 167) requires that each state agency review and consider for re adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Such reviews shall include, at a minimum, an assessment by the agency as to whether the reason for adopting or re adopting the rule continues to exist. The commission held three workshops to conduct a preliminary review of its rules. As a result of these workshops, the commission is reorganizing its current substantive rules located in 16 Texas Administrative Code (TAC) Chapter 23 to (1) satisfy the requirements of Section 167; (2) repeal rules no longer needed; (3) update existing rules to reflect

changes in the industries regulated by the commission; (4) do clean-up amendments made necessary by changes in law and commission organizational structure and practices; (5) reorganize rules into new chapters to facilitate future amendments and provide room for expansion; and (6) reorganize the rules according to the industry to which they apply. Chapter 26 has been established for all commission substantive rules applicable to telecommunications service providers.

The commission requested specific comments on the Section 167 requirement as to whether the reason for adopting or readopting the rule continues to exist. The commission received one comment regarding the Section 167 requirement. Southwestern Bell Telephone Company (SWBT) stated in its comments that the reason for adopting or readopting the rule exists today and will continue to exist into the foreseeable future because of the dynamic nature of the telecommunications industry at this time. The commission finds that the reason for adopting the rule continues to exist.

A public hearing on the proposed sections was held at commission offices on May 11, 1999, at 10:00 a.m. Representatives from AT&T Communications of the Southwest, Inc. (AT&T), Golden Harbor of Texas, Casey, Gentz & Sifuentes, and Lufkin-Conroe Telephone Exchange attended the hearing and provided comments. To the extent that these comments differ from the submitted written comments, such comments are summarized herein.

The commission received comments on the proposed new sections from Southwestern Bell Telephone Company (SWBT), AT&T Communications of the Southwest, Inc. (AT&T), and the Office of Public Utility Counsel (OPC).

According to AT&T, §26.113(e) as proposed, addresses discontinuation of optional services and the relinquishment of certificates in a similar manner, even though there are different statutory standards for the two separate actions under PURA §54.252. AT&T purports that under PURA §54.252, the holder of a COA or SPCOA has an absolute right to discontinue an optional service after a 60-day notification period. AT&T further contends that in contrast, a certificate holder seeking to relinquish its certificate and cease all operations must obtain authorization from the commission before operations may cease. In order to maintain the statutory distinction between these two actions, AT&T requests that proposed §26.113(e) be divided into two sections. Under AT&T's proposal, the new sections should allow for the expedited discontinuation of optional services as allowed by statute.

PURA §54.252 involves grounds for reduction of service by a holder of a certificate of convenience and necessity, while PURA §54.253 actually considers the matter of discontinuation of service by certain certificate holders. Section 54.253(a) provides that a telecommunications utility that holds a COA or an SPCOA may (1) cease operations in the utility's certificated area; or (2) discontinue an optional service that is not essential to providing basic local telecommunications service. Section 54.253(b) further specifies that before the telecommunications utility ceases operations or discontinues an optional service, the utility must

give notice of the intended action to the commission and each affected customer in the manner required by the commission. Section 54.253(c) provides that the utility is entitled to discontinue an optional service on or after the 61st day the utility gives notice, while §54.253(e) similarly states that the commission may not authorize the utility to cease operations before the 61st day after the date the utility gives notice. The language relating to discontinuance of an optional service is very similar to the statute's language relating to ceasing of a utility's operations in a certificated area. Within the limitations as set out by the statute, the commission ultimately decides the specific manner in which a COA or SPCOA holder may cease operations or discontinue an optional service. The commission agrees to adopt AT&T's suggestion and splits proposed §26.113(e) into two subsections. The commission also adopts AT&T's suggestion that for consistency, the rule should refer to a "certificate holder," rather than to a "utility". The commission, however, rejects AT&T's suggested language for the new §26.113(g), and instead duplicates the language of proposed §26.113(e), with minor amendments, in a manner that is consistent with commission procedures.

Also in regards to §26.113, OPC requested that the commission require a utility discontinuing optional services or relinquishing an SPCOA to provide notice of this action to OPC. OPC further requested that the notice should include a copy of the notification letter to be sent to customers so that OPC may review the letter to insure that the rights of residential and small business ratepayers are adequately protected. Finally, OPC requested that the commission require an applicant to notify OPC of any application filed under this rule with the commission.

The commission agrees that a utility discontinuing optional services or relinquishing an SPCOA should also provide a copy of the notice to OPC, in order to insure that the rights of residential and small business rate payers are protected. However, the commission believes that it is not necessary to require an applicant to notify OPC of any application filed under this rule with the commission.

SWBT requested that §26.111(b)(1)(E) should be revised to clarify what "as appropriate" means. SWBT requested that the commission add the word "grant" to §26.111(b)(2). SWBT also suggested alternative language for §26.111(b)(2)(H) and §26.113, in order to clarify the commission's policy.

The commission disagrees with SWBT that there is a need for further clarification of the rule, and believes that the rule is clear as written.

At the public hearing, Casey, Gentz & Sifuentes asked for definitive language addressing what to file for an ownership structure change.

The commission modifies the proposed rule to add new §26.113(d), which allows the utility to file an abbreviated amendment.

The commission changed §26.109 and §26.111, to clarify that the commission needs information regarding telecommunications affiliates. The commission adds new §26.113(i), which clarifies

when amendments should be filed. The commission clarifies §26.113(g)(2), which states the time limit for certificate holders to return customer deposits.

All comments, including any not specifically referenced herein, were fully considered by the commission.

These new sections are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically, PURA §§54.102-54.111, which grant the commission authority to determine the criteria for financial and technical qualifications of applicants for certificates of operating authority, and PURA §§54.152-54.159, which grant the commission authority to determine the criteria for financial and technical qualifications of applicants for service provider certificates of operating authority.

Cross-Index to Statutes: Public Utility Regulatory Act §14.002, §§54.102-54.111, and §§54.152-54.159.

§26.109. Standards for Granting of Certificates of Operating Authority (COAs).

(a) **Scope and purpose.** This section applies to the certification of persons and entities to provide basic local exchange telephone service, basic local telecommunications service, and switched access service as holders of certificates of operating authority established in the Public Utility Regulatory Act, Chapter 54, Subchapter C. Through this section, the commission strives to protect the public interest against entities that are not qualified to provide basic local exchange telephone service, basic local telecommunications service, and switched access service. The commission's overall goal is to encourage the development of a competitive marketplace for local exchange telecommunications services, free of unreasonable barriers to entry, that will provide consumers with the best services at the lowest cost.

(b) **Standards for granting certification to COA applicants.**

(1) The commission shall consider the factors listed in subparagraphs (A) – (E) of this paragraph in deciding whether to grant a COA to an applicant proposing to serve an exchange of an incumbent local exchange company (ILEC).

(A) Whether the applicant has satisfactorily provided all of the information required in the Application for a Certificate of Operating Authority.

(B) Whether the applicant is financially qualified to be a facilities-based local service provider. To prove financial qualification as a facilities-based utility, an applicant shall provide evidence sufficient to establish that:

- (i) Applicant possesses the greater of \$100,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for the first two years of its Texas operations; or
- (ii) Applicant is an established business entity and is able to demonstrate evidence of profitability in existing operations for two years preceding the date of application by submitting a balance sheet and income statement audited or reviewed by a certified public accountant establishing all of the following:
 - (I) A long-term debt to capitalization ratio of less than 60%;
 - (II) A return-on-assets ratio of at least 10%; and,
 - (III) The greater of \$50,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for a minimum of the first two years of its Texas operations.
- (C) Whether the applicant is technically qualified. The commission shall determine whether an applicant possesses sufficient technical

qualifications to be awarded a COA based upon a review of the following information.

- (i) Prior experience by the applicant or one or more of the applicant's principals or employees in the telecommunications industry or a related industry.
- (ii) Any complaint history at the Public Utility Commission of Texas regarding the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals.
- (iii) Any complaint history regarding the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals with Public Utility Commissions or Public Service Commissions in other states where the applicant is doing business. Relevant information shall include, but not be limited to, the type of complaint, status of complaint, resolution of complaint and the number of customers in each state where complaints occur.
- (iv) Any complaint history regarding the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals on file with the Office of the Texas Attorney General and the Attorney General in other states where the applicant is doing business.

- (v) The compliance record of the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals at the Texas Comptroller's Office.
 - (vi) The compliance record of the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals at the Public Utility Commission of Texas.
 - (D) Whether the applicant is able to meet the commission's quality of service standards. Quality of service standards shall include, but not be limited to, 911 compliance, local number portability capability and Y2K compliance of all telecommunications equipment.
 - (E) Whether certification of the applicant is in the public interest.
 - (2) If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may limit the geographic scope of the COA.
- (c) **Financial instruments that will meet the cash requirements established in this section.**
- (1) Applicants for COAs shall be permitted to use any of the financial instruments set out in subparagraphs (A)-(F) of this paragraph to satisfy the cash requirements established in this rule to prove financial qualification.
 - (A) Cash or cash equivalent, including cashier's check or sight draft.

- (B) A certificate of deposit with a bank or other financial institution.
 - (C) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission.
 - (D) A line of credit or other loan, issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission and payable on an interest-only basis for the same period.
 - (E) A loan issued by a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission, and payable on an interest-only basis for the same period.
 - (F) A guaranty issued by a shareholder or principal of applicant, a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond the certification of the applicant by the commission.
- (2) To the extent that the applicant relies upon a loan or guaranty provided in paragraph (1)(E) or (F) of this subsection, the applicant shall provide evidence sufficient to establish that the lender or guarantor possesses sufficient cash or cash equivalent to fund the loan or guaranty.
 - (3) All cash and instruments listed in paragraph (1) (A) - (F) of this subsection shall be unencumbered by pledges as collateral and shall be subject to verification and

review by the commission prior to certification of the applicant and for a period of 12 months beyond the date of certification of the applicant by the commission. Failure to comply with this requirement may void an applicant's certification or result in such other action as the commission deems in the public interest, including, but not limited to, assessment of reasonable penalties and all other available remedies under the Public Utility Regulatory Act.

(d) **Name on certificates.**

- (1) All basic local exchange telephone service, basic local telecommunications service, and switched access service provided under a COA shall be provided in the name under which certification was granted by the commission. The commission shall grant the certificate in only one name.
 - (A) If the applicant is a corporation, the commission shall issue the certificate in the corporate or assumed name of the applicant.
 - (B) If the applicant is an unincorporated business entity or an individual, the commission shall issue the certificate in the assumed name of the entity or the individual.
 - (C) Commission staff shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, or duplicative of an existing certificated telecommunications utility. If the staff determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the

name to alleviate the staff's concerns. If the name is not adequately modified, the application may be denied.

- (2) The holder of a COA may request commission approval to change the name on the certificate by filing an application to amend its certificate with the commission.

(e) **Reporting requirements**

- (1) All COA holders shall file updated information set forth in paragraph (2) of this subsection on an annual basis, by June 30 of each year.
- (2) Annual reportable information shall consist of, but not be limited to the following:
 - (A) Changes in addresses, telephone numbers, authorized contacts and other information for contacting COA holders in Project Number 19421, *Notification of Changes in Address, Contact Representative, and/or Telephone Numbers, Pursuant to P.U.C. Substantive Rule §26.89*;
 - (B) A description of the type(s) of communications services being provided and the exchanges in which the services are being provided.

§26.111. Standards for Granting of Service Provider Certificates of Operating Authority (SPCOAs).

- (a) **Scope and purpose.** This section applies to the certification of persons and entities to provide basic local exchange telephone service, basic local telecommunications service, and switched access service as holders of service provider certificates of operating authority, established in the Public Utility Regulatory Act, Chapter 54, Subchapter D. Through this section, the commission strives to protect the public interest against entities that are not qualified to provide basic local exchange telephone service, basic local telecommunications service, and switched access service. The commission's overall goal is to encourage the development of a competitive marketplace for local exchange telecommunications services, free of unreasonable barriers to entry, that will provide consumers with the best services at the lowest cost.
- (b) **Standards for granting certification to SPCOA applicants.**
- (1) The commission may condition or limit the scope of a SPCOA's service in at least the following ways:
- (A) Facility-based;
 - (B) Resale-only;
 - (C) Data-only;
 - (D) Geographic scope;

- (E) Some combination of the above, as appropriate.
- (2) The commission shall consider the following factors in deciding whether and how to condition or limit a SPCOA:
- (A) Whether the applicant has satisfactorily provided all of the information required in the application for a SPCOA.
 - (B) Whether the applicant is financially qualified as a facilities-based SPCOA. To prove financial qualifications as a facilities-based SPCOA, the applicant shall meet the standards set forth in §26.109(b)(1)(B) of this title (relating to Standards for Granting Certificates of Operating Authority).
 - (C) Whether the applicant is financially qualified as a resale-only SPCOA. To prove financial qualifications as a resale-only SPCOA, an applicant shall provide evidence sufficient to establish that:
 - (i) Applicant possesses the greater of \$25,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for the first year of its Texas operations; or
 - (ii) Applicant is an established business entity and is able to demonstrate evidence of profitability in existing operations for two years preceding the date of application by submitting a balance

sheet and income statement audited or reviewed by a certified public accountant establishing all of the following:

- (I) A long-term debt to capitalization ratio of less than 60%;
 - (II) A return-on-assets ratio of at least 10%; and,
 - (III) The greater of \$10,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for the first year of its Texas operations.
- (D) Whether the applicant is technically qualified. The commission shall determine whether an applicant possesses sufficient technical qualifications to be awarded a facilities-based SPCOA certification or whether applicant should be restricted to a resale-only SPCOA certification, based upon a review of the following information.
- (i) Prior experience by the applicant or one or more of the applicant's principals or employees in the telecommunications industry or a related industry.
 - (ii) Any complaint history regarding the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals on file at the Public Utility Commission of Texas, the Texas Attorney General, or with the

Public Utility Commissions, Public Service Commissions, or Attorneys General in other states where the applicant is doing business. Relevant information shall include, but not be limited to, the type of complaint, status of complaint, resolution of complaint, and the number of customers in each state where complaints have occurred.

(iii) The compliance record of the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals at the Texas Comptroller's Office.

(iv) The compliance record of the applicant, applicant's telecommunications affiliates, predecessors in interest, shareholders, and principals at the Public Utility Commission of Texas.

(E) Whether the applicant is able to meet the commission's quality of service standards. The quality of service standards shall include, but not be limited to, 911 compliance, local number portability capability and Y2K compliance of all telecommunications equipment.

(F) Whether certification of the applicant is in the public interest.

(G) Whether the applicant, together with affiliates, had in excess of 6.0% of the total intrastate switched access minutes of use as measured by the most recent 12-month period preceding the filing of the application for which data is available.

- (H) Whether the applicant has limited its operation to data-only services. If the applicant is limited to data-only services, the applicant will be eligible for a data-only SPCOA, and the applicant shall be waived from 911 and local number portability compliance as related to switched voice services. If the applicant intends to add voice services at a future date, the applicant must first file an amendment, subject to approval of the commission, which shows that the applicant is in compliance with all of the commission's quality of service standards.
 - (3) If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may limit the geographic scope of the SPCOA.
- (c) **Financial instruments that will meet the cash requirements established in this section.**
- (1) Applicants for SPCOAs shall be permitted to use any of the financial instruments set out in subparagraphs (A)-(F) of this paragraph to satisfy the cash requirements established in this rule to prove financial qualification.
 - (A) Cash or cash equivalent, including cashier's check or sight draft.
 - (B) A certificate of deposit with a bank or other financial institution.
 - (C) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission.

- (D) A line of credit or other loan, issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission and payable on an interest-only basis for the same period.
 - (E) A loan issued by a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission, and payable on an interest-only basis for the same period.
 - (F) A guaranty issued by a shareholder or principal of applicant, a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond the certification of the applicant by the commission.
- (2) To the extent that the applicant relies upon a loan or guaranty provided in paragraph (1)(E) or (F) of this subsection, the applicant shall provide evidence sufficient to establish that the lender or guarantor possesses sufficient cash or cash equivalent to fund the loan or guaranty.
 - (3) All cash and instruments listed in paragraph (1) (A) - (F) of this subsection shall be unencumbered by pledges as collateral and shall be subject to verification and review by the commission prior to certification of the applicant and for a period of 12 months beyond the date of certification of the applicant by the commission. Failure to comply with this requirement may void an applicant's certification or result in such other action as the commission deems in the public interest,

including, but not limited to, assessment of reasonable penalties and all other available remedies under the Public Utility Regulatory Act.

(d) **Name on certificates.**

- (1) All basic local exchange telephone service, basic local telecommunications service, and switched access service provided under an SPCOA shall be provided in the name under which certification was granted by the commission. The commission shall grant the certificate in only one name.
 - (A) If the applicant is a corporation, the commission shall issue the certificate in the corporate or assumed name of the applicant.
 - (B) If the applicant is an unincorporated business entity or an individual, the commission shall issue the certificate in the assumed name of the entity or the individual.
 - (C) Commission staff shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, or duplicative of an existing certificated telecommunications utility. If the staff determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the name to alleviate the staff's concerns. If the name is not adequately modified, the application may be denied.

- (2) The holder of an SPCOA may request commission approval to change the name on the certificate by filing an application to amend its certificate with the commission.

(e) **Reporting requirements.**

- (1) All SPCOA holders shall file updated information set forth in paragraph (2) of this subsection on an annual basis, by June 30 of each year.
- (2) Annual reportable information shall consist of, but not be limited to the following:
 - (A) Changes in addresses, telephone numbers, authorized contacts and other information for contacting SPCOA holders in Project Number 19421, *Notification of Changes in Address, Contact Representative, and/or Telephone Numbers, Pursuant to P.U.C. Substantive Rule §26.89;*
 - (B) A description of the type(s) of communications services being provided and the exchanges in which the services are being provided.

**§26.113. Amendment of Certificate of Operating Authority (COA) or Service
Provider Certificate of Operating Authority (SPCOA).**

- (a) A person or entity granted a COA or an SPCOA by the commission shall be required to file an application to amend the COA or an SPCOA in a commission approved format in order to:
- (1) Change the corporate name or assumed name of the certificate holder.
 - (A) Name change amendments may be granted on an administrative basis, if the holder is in compliance with §26.109(b)(1)(C) of this title (relating to Standards for Granting Certificates of Operating Authority) or §26.111(b)(2)(D) of this title (relating to Standards for Granting Service Provider Certificates of Operating Authority), and no hearing is requested.
 - (B) Commission staff shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, confusing or duplicative of an existing certificated telecommunications utility. If the staff determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the name to alleviate the staff's concerns. If the name is not adequately modified, the amendment may be denied.
 - (2) Change the geographic scope of the COA or SPCOA;

- (3) Sell, transfer, assign, or lease a controlling interest in the COA or the SPCOA or sell, transfer, or lease a controlling interest in the entity holding the COA or the SPCOA.
 - (4) Remove the resale-only restriction on a resale-only SPCOA certificate.
 - (5) Remove the data-only restriction on a data-only SPCOA certificate.
- (b) If a COA holder sells, merges, assigns, or leases its certificate or the entity holding the certificate to an SPCOA holder with an identical geographic scope, the surviving entity shall hold a COA certificate and shall have all the obligations of a COA holder set forth under state and federal law; the surviving entity shall also notify the commission within 30 days of the sale, merger, assignment, or lease.
- (c) If the application to amend is for a name change of the certificate holder and is not a sale, transfer, assignment, or lease of the COA or the SPCOA or a sale, transfer, or lease of the entity holding the COA or the SPCOA, applicant will be required to provide a general description of the applicant, including the following:
 - (1) Legal name and all assumed names of the entity to which the commission issued the certificate.
 - (2) All other assumed names, if any, under which the certificate holder does business.
 - (3) Certificate number of the COA or SPCOA.
 - (4) Address and telephone number of the principal office of certificate holder.

- (5) Name, address, and office location of each partner, officer, and the five largest shareholders of certificate holder.
 - (6) Proposed amendment to legal name or assumed name of certificate holder.
- (d) If the application to amend is for corporate restructuring, a change in internal ownership, or an internal change in controlling interest, the applicant may file an abbreviated amendment application, unless the ownership or controlling interest change involves an uncertificated company, significant changes in management personnel, or changes to the underlying financial qualifications of the certificate holder as previously approved. If the commission staff cannot make a determination of continued compliance based on the applicable substantive rules from the information provided on the abbreviated amendment application, then a full amendment application will be required.
- (e) If the application to amend requests any change other than a name change, the commission shall consider the factors set forth in §26.109 of this title and §26.111 of this title in determining whether to approve the amendment to the certificate.
- (f) **Standards for relinquishing certifications.**
- (1) A COA or SPCOA certificate holder relinquishing a certification shall comply with PURA §54.253. Notification to the commission shall consist of filing an amendment, which provides the following information:
 - (A) Name, address, and phone number of certificate holder;

- (B) COA or SPCOA certificate number being relinquished;
- (C) Commission docket number in which the COA or SPCOA was granted;
- (D) A sworn statement stating the authority to relinquish certification, notification of customers, and that the information provided in the amended application is true and correct;
- (E) Notification to each customer.
 - (i) The notification letter shall clearly state the intent of the certificate holder to cease operations and a copy of the letter shall be provided to the commission and to the Office of Public Utility Counsel (OPC);
 - (ii) The notification letter shall give customers a minimum of 61 days notice of relinquishment of certification;
 - (iii) The notification letter shall inform customers of the carrier of last resort or make other arrangements to provide service as approved by the customers.
- (2) All customer deposits and credits shall be returned within 60 days of notification to relinquish certification;
- (3) Any switchover fees that will be charged to affected customers shall be paid by the certificate holder relinquishing the certification;
- (4) If the relinquishing certificate holder has participated in the universal service fund (USF), it must obtain a letter of release from the USF Administrator.

- (5) The relinquishing certificate holder shall maintain operations until it has obtained commission authorization to cease operations or services. Upon the certificate holder receiving commission authorization to cease operations, the relinquishing certificate holder shall void its existing interconnection agreement(s).

(g) **Standards for discontinuing optional services.**

- (1) A COA or SPCOA certificate holder discontinuing optional services shall comply with PURA §54.253. Notification to the commission shall consist of filing an amendment, which provides the following information:
 - (A) Name, address, and phone number of certificate holder;
 - (B) COA or SPCOA certificate number being amended;
 - (C) Commission docket number in which the COA or SPCOA was granted;
 - (D) A sworn statement stating the authority to discontinue service options, notification of customers, and that the information provided in the amended application is true and correct;
 - (E) Notification to each customer.
 - (i) The notification letter shall clearly state the intent of the certificate holder to cease an optional service and a copy of the letter shall be provided to the commission and to OPC;
 - (ii) The notification letter shall give customers a minimum of 61 days notice of discontinuation of optional services.

- (2) All customer deposits and credits affiliated with the discontinued optional services shall be returned within 30 days of discontinuation.
 - (3) The certificate holder shall maintain the optional services until it has obtained commission authorization to cease the optional services.
- (h) No later than five days after filing an application to amend, the applicant shall notify the Advisory Commission on State Emergency Communications and all affected 9-1-1 entities by providing a copy of the application to amend.
- (i) All amendment filings shall be made within 30 days of the event requiring the amendment.

This agency hereby certifies that these rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that rules §26.109, §26.111, and §26.113 are hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 9th DAY OF AUGUST 1999.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Pat Wood, III

Commissioner Judy Walsh

Commissioner Brett A. Perlman