

2000, based on the mandate given by the FCC and the compelling reasons advanced by the petitioners, the commission agreed to proceed with the rulemaking to amend §26.127.

A public hearing on the proposed amendment was held at commission offices on January 9, 2001. Representatives from the following entities attended the hearing: Southwestern Bell Telephone Company (SWBT), John Staurulakis Inc., General Services Commission (GSC), United Ways of Texas, Health and Human Services Commission, Verizon Southwest, CCG Consulting, Texas Silver-Haired Legislature, Government Connect, The Resource House, Texas Statewide Telephone Cooperative, Inc., AT&T Communications of Texas L.P. (AT&T), Commission on State Emergency Coordination, and the Office of the Attorney General. To the extent that these comments differ from the submitted written comments, such comments are summarized herein.

The commission received written comments on the proposed amendment from the following individuals and organizations: Pat O'Brien of Dallas, Texas; Literacy Volunteers of America; Community Council of the Rio Grande Valley, Inc.; United Way of the Texas Gulf Coast; United Way of Brazoria County; BP Amoco Corporation Chocolate Bayou Works, Alvin, Texas; The Women's Advocacy Project, Inc., Austin, Texas; Tate Austin Public Relations; The ARC of the Capital Area; Women's Haven of Tarrant County, Inc.; United Way of Southern Cameron County; United Way/Capital Area; Nancy Lee of Longview, Texas; the United Ways of Texas; Linda Castaria; Marta Nichols; United Way Greater Wichita Falls; Dan L. Nicewander of Plano, Texas; Martha T. Blaine of Dallas, Texas; East Texas Council on Alcoholism and Drug Abuse (ETCADA), Longview, Texas; Brinks Home Security, Irving, Texas; Homer Hanna High

School, Brownsville, Texas; United Cerebral Palsy of Tarrant County; Joe R. Thompson of Fort Worth, Texas; United Way of Metropolitan Tarrant County; Reba and Bob Ragsdale; Dallas County Community Action Committee, Inc.; Lucretia Holmes of Plano, Texas; Elizabeth Graham of Richardson, Texas; Community Action Network, Austin, Texas; Lourdes S. Kilgore of Brownsville, Texas; Central Dallas Ministries; Timothy W. McKinney of Forth Worth, Texas; Marilyn K. Self of Dallas, Texas; United Way Brazos Valley; Nancy and Leonard Berry; Harry Green of College Station, Texas; United Way of San Antonio & Bexar County; CarLinc Network, Waco, Texas; Rio Grande Cancer Foundation; United Way of Tyler/Smith County; Jewish Federation of Fort Worth and Tarrant County; SETON, Austin, Texas; United Way of the Greater Fort Hood Area; United Way Corpus Christi; Literacy Council of Tyler; Myriam Hubbard Palemer of Arlington, Texas; AIDS Outreach Center, Tarrant County; Prevent Blindness Texas, El Paso, Texas; Texas Workforce Commission, Austin, Texas; Marjory Boswell of Fort Worth, Texas; Brazos Valley Community Action Agency, Bryan, Texas; LMSW; First Call for Help United Way; Carolina Karn of Bryan, Texas; American Cancer Society, Austin, Texas; Visiting Nurse Association of Houston, Inc.; Asian American Health Coalition, Houston, Texas; Patricia F. Cheong of Colleyville, Texas; Career and Recovery Resources, Inc., Houston, Texas; Matagorda County United Way; Pamela J. Rooney; Cancer Care Services, Fort Worth, Texas; Arlington Independent School District; Citizen Advocate of Lubbock, Texas; United Way of Metropolitan Dallas; Charles A. Ellison of College Station, Texas; B/CS Chamber of Commerce; Penny Zent; AT&T; SWBT; GSC; and two anonymous letter writers.

Virtually all of the above commenters voiced general support for the rule and stated that the commission should adopt the proposed rule. None of the commenters opposed the rule, though AT&T did not specifically endorse it. Only AT&T and SWBT, which expressed general support for the rule, filed written comments related to specific provisions of the rule.

Subsection (c)

SWBT indicated that this subsection would lead to confusion due to the fact that all N11 codes are currently assigned.

The commission agrees with SWBT that this provision may cause confusion, as with the adoption of this rule, all N11 codes in Texas have been assigned and are therefore unavailable for internal business and testing purposes. Accordingly, the commission deletes subsection (c) as proposed from the rule.

Subsection (e)(2) (now subsection (d)(2))

SWBT recommended that the commission provide specific parameters as to what qualifies as "community resources" or "immediate needs for social services," lest the use of the 211 code become unmanageable. SWBT noted that such specifics could be addressed as implementation issues.

The commission does not believe that either "community resources" or "immediate needs for social services" needs modification. The commission believes that sufficient clarity has been provided in the rule regarding the scope and purpose for use of the 211 code. The commission believes that the rule as written provides for maximum flexibility in determining appropriate health and human services that fall under the rule and declines to create an exclusive list for definitional purposes. The commission agrees with SWBT that certain specifics may be appropriately addressed as implementation issues when solutions are determined regarding how 211 service will be implemented.

Subsection(e)(6) (now subsection (d)(6))

Both AT&T and SWBT expressed concern that the published rule did not provide for cost recovery by certificated telecommunications utilities (CTUs) for the services they provide to 211 area information centers (AICs). SWBT noted that the FCC, in directing the use of the codes, stated that the AICs intend to provide the service free to end users; consequently, SWBT concluded, "it is logical that they (AICs) assume the cost of providing the service." Accordingly, SWBT said it expected to file tariffs for providing 211 service to a state-authorized agency providing information and referral services similar to the tariffs filed for providing non-emergency 311 service. In addition, SWBT opined that if an agency requests the creation of a new database (as using the 911 database is prohibited), the associated costs should be recovered from the agency requesting the 211 service. Likewise, AT&T specifically observed that the 211-service definition in the rule, providing for free access by end users to 211 service, might be used by AICs to claim that AICs should receive the underlying service free from CTUs. CTUs are

entitled to recover such costs, AT&T contended, just as in the provision of 911 services. It recommended that the rule clarify this right for both 211 service and 511 service.

GSC recommended not putting additional language in the rule that might constrain the decision made by the HHSC to use what may be the best method possible for deploying a solution. GSC also argued that the competitive market should drive the technological and cost-recovery aspects of the decisions. In addition, GSC stated that the potential exists for possible additional language being required only after the technical solution and cost-recovery method are identified and selected by the HHSC.

The commission believes that by not mandating language that specifically prohibits cost recovery, CTUs should be able to recover costs for implementing service. The commission does not know of the specific technological solutions that ultimately will be used to provision 211 service, and therefore does not know what costs are appropriate for CTUs to recover. As a general matter, however, the commission does not believe that the rule as written prohibits cost recovery. The commission does believe that old subsection (e)(6) (now subsection (d)(6)) should be clarified to make certain that, although CTUs may appropriately recover costs for implementing 211 service, CTUs may not charge an end-user a fee on a per-call or per-use basis for accessing the 211 system.

AT&T also raised the matters of access charges and reciprocal compensation in connection with 211 and 511 calls. Such calls, AT&T asserted, are more like 911 calls than standard POTS ("plain old telephone service") calls; therefore, it continued, to the extent 911 calls are now and

continue to be exempt from reciprocal compensation, 211 and 511 calls should be as well. Likewise, AT&T opined that access charges should not be applied to 211 or 511 calls to the extent such calls must be routed in a way that normally would require the application of access charges to POTS calls.

The commission finds that 211 service is akin to 311 or 911 service and should be treated the same with respect to reciprocal compensation and access charges. The commission agrees with AT&T that to the extent 911 calls are exempt from reciprocal compensation and access charges, so too should 211 and 511 calls. The commission finds no reason in the record of this rulemaking to treat specific N11 dialing codes differently. The commission does not believe that any language in the rule is in conflict with this position, and therefore makes no changes to the rule.

In a related vein, AT&T argued that the areas served by individual AICs for 211 service (and their equivalents for 511 service) should be required to correspond to existing rate centers and/or NPA-NXX codes. Otherwise, it stated, implementation of the new dialing codes will impose undue burdens on local exchange companies. Similarly, SWBT recommended that the rule include a provision requiring the termination of 211 calls onto toll-free numbers when calls are placed outside the local calling area. If such a requirement is not included, SWBT stated, the rule may need to address how carriers should handle 211 calls made outside the local area.

The commission believes that these issues are better addressed in the implementation docket that is being scheduled to work with interested parties in developing technology-neutral standards or

solutions. The commission does not agree with AT&T that the areas served by individual AICs should be required to correspond to those of existing rate centers. Many factors are involved in the designation of AICs that do not always translate into identical boundaries. Indeed, the boundaries of AICs that have already been established do not as a general matter correspond to existing rate centers. The commission is confident that the industry will devise solutions for the most cost-effective way to implement 211 service, while maintaining the integrity of the AIC structure. In addition, the commission agrees with SWBT that termination of 211 calls onto toll-free numbers when calls are placed outside the local calling area is worthy of consideration. However, the commission is reluctant to impose this specific requirement based on the limited facts in this record. As the commission does not know at this time how 211 service ultimately will be implemented from a technology standpoint, the commission declines to include SWBT's recommendation. The commission expects this topic to be fully developed in the implementation docket, in which technology solutions will be considered. The commission also reiterates that whatever specific procedures are adopted, end users are not to be charged a fee for placing 211 calls.

Lastly, AT&T recommended including in the rule a policy statement that the creation of the 211 and 511 networks "does not render any entity the exclusive owner of the content of the information in the 211 and 511 databases and that competitive providers should as well be provided nondiscriminatory access to the information within those databases, consistent with any applicable privacy requirements, for the purposes of providing services to their customers." AT&T proposed such a statement on the grounds that the information contained in the 211 and 511 databases could prove to be of competitive value with increasing local competition.

The commission agrees with AT&T that competitive providers should be allowed to access the information in the databases, consistent with applicable privacy requirements. As is the case for the 911 database, however, the entity that creates and maintains the 211 or 511 database should be allowed to charge for providing this information to other carriers. Holders of a certificate of convenience and necessity must receive commission approval of tariffs that provide for such charges.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2001) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002

§26.127. Abbreviated Dialing Codes.

(a) **Code assignments.** The following abbreviated dialing codes may be used in Texas:

- (1) 211 — Community Information and Referral Services;
- (2) 311 — Non-Emergency Governmental Service;
- (3) 411 —
 - (A) Directory Assistance; and
 - (B) Directory Assistance Call Completion;
- (4) 511 — Traffic and Transportation Information;
- (5) 611 — Repair Service;
- (6) 711 — Telecommunications Relay Service;
- (7) 811 — Business Office; and
- (8) 911 — Emergency Service.

(b) **Use only as directed.** A certificated telecommunications utility (CTU) within the State of Texas may assign or use N11 dialing codes only as directed by the commission.

(c) **Limitations.** The following limitations apply to a CTU's use of N11 dialing codes for internal business and testing purposes:

- (1) use may not interfere with the assignment of such numbers by the FCC and the North American Numbering Plan (NANP); and
- (2) use of an N11 dialing code must be discontinued on short notice if the number is reassigned on a statewide or nationwide basis.

(d) **211 service.**

- (1) **Scope and purpose.** This subsection applies to the assignment, provision, and termination of 211 service. Through this subsection, the commission intends to enhance the ability of the public to access services that provide free information and referral to community resources in situations that are not immediately life-endangering, but still represent a serious but less urgent threat to basic human needs and individuals' health or welfare.
- (2) **Definitions.** The following words and terms, when used in this subsection, shall have the following meanings unless the context indicates otherwise:
 - (A) **Alliance of Information and Referral Systems (AIRS)** – A professional organization whose mission is to unite and serve the field and to advance the profession of information and referral as a vital means of bringing people and services together. AIRS has developed national quality standards and methods of evaluating information and referral services.
 - (B) **Area Information Center (AIC)** – An entity that serves as regional coordinator for health and human services information for a specified geographical area or region.
 - (C) **Community resource** – A for profit or nonprofit resource that provides health or human services in a designated geographic area.
 - (D) **Information and referral service** – A service whose primary purpose is to maintain information about human service resources in the community and to link people who need assistance with appropriate service providers

and/or to supply descriptive information about the agencies or organizations which offer services.

- (E) **Selective routing** – The feature provided with 211 service by which 211 calls are automatically routed to the 211 answering point for serving the place from which the call originates.
 - (F) **Texas Information and Referral Network (Texas I & R Network)** – A program of the Health and Human Services Commission (HHSC) that is responsible for the development, coordination, and implementation of the statewide information and referral network.
 - (G) **211 answering point** – An AIC that:
 - (i) provides 24 hour, seven day a week operations;
 - (ii) is assigned by HHSC the responsibility to receive 211 calls;
 - (iii) serves the area or region designated by HHSC; and
 - (iv) performs the roles and responsibilities of an AIC.
 - (H) **211 service** – A telecommunications service provided by a CTU to a designated area information center through which the end user of a public phone system has the ability to access services providing free information and referrals regarding community service organizations.
- (3) **Role and responsibilities of the Texas Health and Human Services Commission (HHSC).**
- (A) To designate an AIC as a 211 provider for a particular geographical area;
 - (B) HHSC and the AICs educate the populace about the use of 211 service from its inception through termination;

- (C) HHSC is responsible for dispute resolution should a conflict regarding the selection of an AIC occur; and
 - (D) HHSC may terminate an AIC's designation for good cause and is responsible for ensuring prompt and efficient selection of a new AIC for continuation of service.
 - (4) **Use of the 211 system.**
 - (A) 211 calls may not be completed over the 311 or 911 networks or use the 311 or 911 databases.
 - (B) The 211 network shall not be used for commercial advertisements.
 - (5) **Privacy policy.** To preserve the privacy of callers who wish to use the 211 service anonymously, an AIC which uses Automatic Number Identification (ANI), Automatic Location Identification (ALI) service or other equivalent non-blockable information-gathering features for the provision of 211 service must establish an in-house procedure that is consistent with the AIRS national standards and the standards set forth by HHSC that allows access to the 211 service while honoring the caller's call and line-blocking preferences and/or caller anonymity.
 - (6) **Fee.** Neither an AIC nor a CTU may charge end users a fee on a per-call or per-use basis for using the 211 system.
- (e) **311 service.**
- (1) **Scope and purpose.** This subsection applies to the assignment, provision, and termination of 311 service. Through this subsection, the commission strives to

strengthen the 911 system by alleviating congestion on the 911 system through the establishment of a framework for governmental entities to implement a 311 system for non-emergency police and other governmental services.

- (2) **Definition.** The term "governmental entity" when used in this subsection means any county, municipality, emergency communication district, regional planning commission, appraisal district, or any other subdivision or district that provides, participates in the provision of, or has authority to provide fire-fighting, law enforcement, ambulance, medical, 911, or other emergency service as defined in Texas Health & Safety Code §771.001, as may be subsequently amended.
- (3) A certificated telecommunications utility must have a commission-approved application to provide 311 service.
- (4) **Requirements of application by certificated telecommunications utility.**
 - (A) Applications, tariffs, and notices filed under this subsection shall be written in plain language, shall contain sufficient detail to give customers, governmental entities, and other affected parties adequate notice of the filing, and shall conform to the requirements of §26.209 of this title (relating to New and Experimental Services) or §26.211 of this title (relating to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges), whichever is applicable.
 - (B) A CTU shall provide a copy of the text of the proposed notice to notify the public of the request for 311 service with the filing of an application for regulatory approval of the certificated telecommunications utility's provision of 311 service.

- (C) No application for 311 service allowing the governmental entity to charge its citizens a fee on a per-call or per-use basis for using the 311 system shall be approved.
 - (D) All applications for 311 service shall include the governmental entity's plan to educate its populace about the use of 311 at the inception of 311 service and its plan to educate its populace at the termination of the governmental entity's provision of 311 service.
- (5) **Notice.** The presiding officer shall determine the appropriate level of notice to be provided and may require additional notice to the public.
- (A) The certificated telecommunications utility shall file with the commission a copy of the text of the proposed notice to notify the public of the request for 311 service and the filing of an application for regulatory approval of the certificated telecommunications utility's provision of 311 service. This copy of the proposed notice shall be filed with the commission not later than ten days after the certificated telecommunications utility receives the 311 service request; and
 - (B) The proposed notice shall include the identity of the governmental entity, the geographic area to be affected if the new 311 service is approved, and the following language: "Persons who wish to comment on this application should notify the commission by (specified date, 30 days after notice is published in the *Texas Register*). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public

Utility Commission's Customer Protection Division at (512) 936-7120 or toll free at (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136."

- (6) A certificated telecommunications utility may provide 311 service only to governmental entities.
- (7) A 311 service request shall start the six-month deadline to "take any necessary steps to complete 311 calls" as required by the Federal Communications Commission's Order In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, FCC 97-51, 12 F.C.C.R. 5572 (February 19, 1997).
- (8) 311 calls shall not be completed over the 911 network or use the 911 database.
- (9) The 311 network shall not be used for commercial advertisements.
- (10) To preserve the privacy of callers who wish to use the governmental entity's non-emergency service anonymously, a certificated telecommunications utility which uses Automatic Number Identification (ANI) service, Automatic Location Identification (ALI) service or other equivalent non-blockable information-gathering features for the provision of 311 service must establish a non-abbreviated phone number that will access the same non-emergency police and governmental services as the 311 service while honoring callers' call- and line-blocking preference. When publicizing the availability of the 311 service, the governmental entity must inform the public if its 311 service has caller or number identification features, and must publicize the availability of the non-abbreviated

phone number that offers the same service with caller anonymity. When a certificated telecommunications utility uses Caller Identification (Caller ID) services or other equivalent features to provide 311 service, relevant provisions of the commission's substantive rules and of the Public Utility Regulatory Act apply.

- (11) The commission shall have the authority to limit the use of 311 abbreviated dialing codes to applications that are found to be in the public interest.
- (12) The commission shall have the authority to decide which governmental entity shall provide 311 service when there are conflicting requests for concurrent 311 service for the same geographic area, to the extent that negotiations between or among the affected governmental entities fail. The commission shall consider the following factors in determining conflicting requests for 311 service:
 - (A) the nature of the service(s), including but not limited to the proposed public education portion, to be provided by the governmental entity; and
 - (B) the potential magnitude of use of the requested 311 service (i.e., the number of residents served by the governmental entity and their potential frequency of access to the governmental agencies wishing to use the 311 service).
- (13) When termination of 311 service is desired, the certificated telecommunications utility shall file a notice of termination with the commission that contains:
 - (A) proposed notice to the affected area of the termination of 311 service; and
 - (B) the program to educate the affected public of the termination of 311 service.

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

This agency hereby certifies that the rule, as adopted, has 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 §26.127, relating to Abbreviated Dialing Codes, is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 26th DAY OF MARCH, 2001.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Pat Wood, III

Commissioner Brett A. Perlman