

PROJECT NO. 32000

RULEMAKING TO AMEND SUBST. R.	§	PUBLIC UTILITY COMMISSION
§26.127 RELATING TO ABBREVIATED	§	
DIALING CODES TO DESIGNATE 811	§	OF TEXAS
FOR NATIONAL ONE CALL	§	
NOTIFICATION AND INQUIRY	§	
PURSUANT TO FCC CC DOCKET NO.	§	
92-105 ADOPTED MARCH 10, 2005	§	

**ORDER ADOPTING AMENDMENT TO §26.127
AS APPROVED AT THE OCTOBER 13, 2006, OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §26.127, relating to Abbreviated Dialing Codes, with no changes to the proposed text as published in the July 14, 2006, issue of the *Texas Register* (31 TexReg 5512). The amendment will designate the use of the abbreviated dialing code “811” for “One Call” advanced notification and inquiry related to excavation activities and underground facilities. This amendment implements *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Sixth Report and Order, CC Docket No. 92-105, FCC 05-59 (Mar. 14, 2005) (*Order*), in which the Federal Communications Commission (FCC) designated 811 for One Call purposes. The use of 811 is intended to replace a myriad of telephone numbers with a nationally uniform number to allow contractors and property owners to give advance notice of excavation plans and allow facility operators to mark underground facilities prior to excavation to prevent facilities damage and service outages. This amendment is adopted under Project Number 32000.

A public hearing on the amendment was held at commission offices on August 29, 2006, at 10:00 a.m. Representatives from Associated General Contractors of Texas (AGC), AT&T Texas (AT&T Texas), Eastex Telephone Cooperative (Eastex), Energy Transfer Company (ETC),

Texas Underground Facility Notification Corporation (doing business as One Call Board of Texas and hereafter referred to as One Call Board), Texas Pipeline Safety Coalition (TPSC), Texas Statewide Telephone Cooperative, Inc. (TSTCI), United States Department of Transportation/Pipeline and Hazardous Materials Safety Administration (USDOT/PHMSA), United Telephone Company of Texas, Inc. and Central Telephone Company of Texas, Inc. d/b/a Embarq (hereafter collectively referred to as Embarq), Verizon Southwest (Verizon), and Windstream Communications (Windstream), 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 written comments on the proposed amendment from five parties; John Stauralakis Incorporated (JSI), TPSC, Consolidated Communications of Fort Bend Company and Consolidated Communications of Texas Company (hereafter collectively Consolidated Communications), CHR Solutions (CHR), and United Telephone Company of Texas and Central Telephone Company of Texas d/b/a Embarq (hereafter collectively Embarq).

Comments on §26.127(a)(7) and (f)

A public hearing was requested by TPSC in its August 14, 2006, comments. TPSC strongly supported adoption of the proposed amendment and stated that it believed the implementation of the abbreviated “811” number would provide a simplified process for notification and result in a decrease of damage to pipelines and other underground facilities. TPSC expressed its concern that the abbreviated “811” number might not be fully functioning on April 13, 2007, the deadline established by the FCC’s *Order*, and encouraged the commission to “require the implementation

of the 811 system to be done in a manner that spreads the implementation costs across all consumers statewide.” In addition, TPSC requested that any charges for the 811 implementation should be comparable to those of other states, on a per switch basis, and that “an informal study could be conducted to evaluate other states implementation process and cost to underground facility operators.”

JSI filed written comments on August 11, 2006, stating that 16 telecommunications companies represented by its firm had determined that implementation of 811 would be met by the FCC’s deadline, that costs were minimal and that its companies were not seeking reimbursement of implementation charges at this time. JSI reserved the right to seek reimbursement for additional expenses should they arise.

Consolidated Communications also noted, in its August 16, 2006 comments, that the FCC’s 811 implementation deadline would be met by its companies. Consolidated Communications stated that it was not seeking recovery of the costs for implementation at this time.

CHR, representing 34 companies, filed two comments, one on August 25, 2006, and the second on August 28, 2006, stating that its companies were not seeking reimbursement of 811 implementation costs and were prepared to meet the FCC’s April 13, 2006, deadline for the implementation. CHR also reserved its right to seek reimbursement for future expenses required by mandate.

Embarq's August 30, 2006, comments simply provided its estimate of its companies' costs for the 811 implementation and advised that the estimated completion date would occur during the first quarter of 2007.

At the August 29, 2006, public hearing, TPSC reiterated its positions regarding concern for the actual implementation date of the 811 service and the recovery of any implementation costs by the One Call Board.

The One Call Board currently operates a toll free-number (1-800-545-6005) for "One Call" purposes. It is anticipated that calls to the current toll-free number will be gradually migrated to the abbreviated dialing code and that 811 will be fully functional throughout Texas by April 13, 2007. The toll free "800" number will continue to exist and receive incoming calls dialed directly to it. When the 811 number is dialed those calls will be "transparently" transferred to the One call Board's same toll free "800" number. The One Call Board supervises its toll free "800" number and uses an automated system to direct calls received at that number to three other toll free "800" numbers in centers geographically distributed across Texas.

At the August 29, 2006, public hearing the One Call Board discussed its current operations and some concerns regarding the implementation of 811. In particular, the One Call Board noted that the majority of its end users are sophisticated excavators, some of whom are located in other states but doing construction work in Texas. The One Call Board questioned how those calls would be directed if parties in other states contact their home-state 811 center. The One Call Board also discussed whether telecommunications providers might prefer to direct 811 calls to

specific toll free 800 numbers, those assigned to the specific centers, or to their central toll free 800 number. The One Call Board noted that sophisticated users frequently have the specific number of a center they work with, even a specific individual at that center, and would likely continue to contact that center and that specific party. The One Call Board noted that excavators also contact the centers via electronic mail (email) and facsimile transmissions (faxes). The One Call Board expressed some concern regarding the anticipated spike in usage of 811 it expects will be the result of the publicizing of the new abbreviated code. However, the One Call Board noted that such calls will likely diminish when users understand that the purpose of the One Call Board is marking for major excavation (digs of over 16 inches) by facilities operators.

At the August 29, 2006, public hearing, the One Call Board advised that it does not have the authority to pay any implementation charges to the telecommunications utilities for the “overlay” of 811 onto the One Call Board’s toll free 800 number. However, the One Call Board stated it will not impede or interfere with the implementation of the 811 abbreviated dialing code.

The Staff asked the company representatives present at the public hearing to state whether the implementation date ordered by the FCC would be met and whether payment of costs incurred by the companies (for programming and other central office work) to implement the 811 “overlay” would be an issue. Representatives of AT&T Texas, Eastex, Embarq, Verizon, and Windstream stated that there would be no problem meeting the FCC’s deadline, that some conversions are taking place at this time and that the costs of the implementation would not be an issue. The attending parties, much as the written commenters, noted that they did not

relinquish their right to seek reimbursement of implementation costs or additional costs, should they arise through legislative means.

The One Call Board noted for the record that telecommunications providers were free to begin implementation of 811 using the One Call Board's toll free 800 number central distribution number (1-800-545-6005). Staff requested the One Call Board make a filing with the commission to formalize and memorialize its position regarding the inability to reimburse any costs and the permission to proceed with 811 implementation.

Commission response

The commission notes that the FCC's intention in providing a uniform abbreviated dialing code for purposes of excavation notification is an issue of public interest. The FCC seeks to insure that consumers' telecommunications services and other utility services will not be interrupted due to accidental damage to underground facilities and that all excavators will have a centralized point of contact. Texas is fortunate to have the One Call Board, pursuant to Section 251 of the Texas Utilities Code, firmly established and operating efficiently throughout the state. The current system of excavation notification in our state is excellent, and the commission believes that the implementation of 811 will only enhance the current notification system.

The commission notes that the FCC did not provide specific guidance regarding reimbursement of costs, instead referring this matter to the state commissions. The commission cannot mandate reimbursement for telecommunications providers under its

current authority. However, the commission notes that telecommunications providers are the beneficiaries of the notification system, as their facilities and consumer base are protected through its use. The commission is encouraged by the telecommunications providers who have stated plainly that they will meet the FCC's implementation deadline and are not seeking reimbursement for the implementation of 811. The commission also notes that the total costs projected by all providers participating in this proceeding (representing the majority of Texas telecommunications access lines) is minimal and amounts to a small and reasonable cost of doing business for the companies.

Therefore, the commission does not propose any changes to the published rule amendment.

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

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2005) (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 and §14.052; Underground Facility Damage Prevention and Safety Act, TEX. UTIL. CODE ANN (Vernon 1998 & Supp. 2005) §§ 251.001 – 251.202.

§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 — One Call Excavation Notification; 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*.
- (f) **811 service.**
- (1) **Scope and purpose.** This subsection applies to the assignment, provision, and termination of 811 service. Through this subsection, the commission implements the Federal Communications Commission's requirements in *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Sixth Report and Order, CC Docket No. 92-105, FCC 05-59 (Mar. 14, 2005), that designated 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002. The commission intends to reduce the possibility of disruptions to underground facilities by implementing 811 service. Implementation of 811 service will facilitate advance notice by excavators of planned excavations to facility operators, allowing facility operators to mark and prepare their facilities before excavation.
- (2) **Authority.** Authority for One Call Excavation Notification resides with the Texas Underground Facility Notification Corporation (doing business as One Call Board of Texas) pursuant to Section 251 of the Texas Utilities Code.

This agency hereby certifies that the adoption 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 no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE _____ DAY OF OCTOBER 2006.

PUBLIC UTILITY COMMISSION OF TEXAS

PAUL HUDSON, CHAIRMAN

JULIE PARSLEY, COMMISSIONER

BARRY T. SMITHERMAN, COMMISSIONER