

**PROJECT NO. 39585**

<b>RULEMAKING PROCEEDING</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>TO AMEND SUBSTANTIVE RULES</b>	<b>§</b>	
<b>RELATING TO</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TELECOMMUNICATIONS SERVICE</b>	<b>§</b>	
<b>TO CONFORM TO 2011 LEGISLATION</b>	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §§26.5, 26.22, 26.23, 26.27, 26.29, 26.54, 26.73, 26.89, 26.124, 26.128, 26.134, 26.141, 26.171, 26.205, 26.208, 26.211, 26.217, 26.219, 26.226, 26.227, 26.229, 26.230 AND 26.401  
AS APPROVED AT THE DECEMBER 8, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §§26.5, 26.22, 26.23, 26.27, 26.29, 26.54, 26.73, 26.89, 26.124, 26.128, 26.134, 26.141, 26.171, 26.205, 26.208, 26.211, 26.217, 26.219, 26.226, 26.227, 26.229, 26.230, and 26.401. The amendments will amend commission substantive rules relating to telecommunications service to conform to 2011 legislation, which includes Senate Bills 773, 980, and 983, and House Bills 2295 and 2680 of the 82nd Legislature, Regular Session (Telecom Legislation). Project Number 39585 is assigned to this proceeding.

Liz Kayser, Market Economist, Competitive Markets Division, has determined that for each year of the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Ms. Kayser has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be compliance with Senate Bills 773, 980, and 983, and House Bills 2295 and 2680. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing

these amendments. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed.

Ms. Kayser has also determined that for each year of the first five years the proposed amendments are in effect, there should be no effect on local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking if requested pursuant to the APA, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for public hearing must be received within 20 days after publication.

Comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Friday, January 6, 2012. Sixteen copies of comments to the proposed amendments are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted by Monday, January 23, 2012. Comments should be organized in a manner consistent with the organization of the amended rule. All comments should refer to Project Number 39585.

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2011) (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 the amendments to PURA made by Senate Bills 773, 980, and 983, and House Bills 2295 and 2680 of the 82<sup>nd</sup> Legislature, Regular Session.

Cross Reference to Statutes: PURA §14.002 and the amendments to PURA made by Senate Bills 773, 980, and 983, and House Bills 2295 and 2680 of the 82<sup>nd</sup> Legislature, Regular Session.

**§26.5. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings,

unless the context ~~clearly~~ indicates otherwise:

(1) - (66) (No change.)

~~(67)~~ Deregulated company -- An incumbent local exchange company (ILEC) for which all of the company's markets have been deregulated.

~~(68)(67)~~ **Direct-trunked transport** -- Transmission of traffic between the serving wire center and another CTU's office, without intermediate switching. It is charged on a flat-rate basis.

~~(69)(68)~~ **Disconnection of telephone service** -- The event after which a customer's telephone number is deleted from the central office switch and databases.

~~(70)(69)~~ **Discretionary services (DS)** -- Those services as defined in the Public Utility Regulatory Act §58.101, and any other service the commission subsequently categorizes as a discretionary service.

~~(71)(70)~~ **Distance learning** -- Instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by an educational institution predominantly for such instruction, learning, or training--including: video, data, voice, and electronic information.

~~(72)(71)~~ **Distribution lines** -- Those lines from which the end user may be provided direct service.

~~(73)(72)~~ **Dominant carrier** -- A provider of a communication service provided wholly or partly over a telephone system who the commission determines has sufficient market power in a telecommunications market to control prices for that service in that market in a manner

adverse to the public interest. The term includes a provider who provided local exchange telephone service within certificated exchange areas on September 1, 1995, as to that service and as to any other service for which a competitive alternative is not available in a particular geographic market. In addition with respect to:

- (A) intraLATA long distance message telecommunications service originated by dialing the access code "1-plus," the term includes a provider of local exchange telephone service in a certificated exchange area for whom the use of that access code for the origination of "1-plus" intraLATA calls in the exchange area is exclusive; and
- (B) interexchange services, the term does not include an interexchange carrier that is not a certificated local exchange company.

~~(74)(73)~~ **Dominant certificated telecommunications utility (DCTU)** -- A CTU that is also a dominant carrier. Unless clearly indicated otherwise, the rules applicable to a DCTU apply specifically to only those services for which the DCTU is dominant.

~~(75)(74)~~ **Dual-party relay service** -- A service using oral and printed translations, by either a person or an automated device, between hearing- or speech-impaired individuals who use telecommunications devices for the deaf, computers, or similar automated devices, and others who do not have such equipment.

~~(76)(75)~~ **Educational institution** -- Accredited primary or secondary schools owned or operated by state and local government entities or by private entities; institutions of higher education as defined by the Texas Education Code, §61.003(13); the Texas Education Agency, its successors and assigns; regional education service centers established and

operated pursuant to the Texas Education Code, Chapter 8; and the Texas Higher Education Coordinating Board, its successors and assigns.

~~(77)(76)~~ Electing local exchange company (LEC) -- A CTU electing to be regulated under the terms of the Public Utility Regulatory Act, Chapter 58.

~~(78)(77)~~ Electric utility -- Except as provided in Chapter 25, Subchapter I, Division 1 of this title (relating to Open- Access Comparable Transmission Service for Electrical Utilities in the Electric Reliability Council of Texas), an electric utility is: A person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Texas Utilities Code, Chapter 184, Subchapter C, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:

- (A) a municipal corporation;
- (B) a qualifying facility;
- (C) a power generation company;
- (D) an exempt wholesale generator;
- (E) a power marketer;
- (F) a corporation described by Public Utility Regulatory Act §32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;
- (G) an electric cooperative;
- (H) a retail electric provider;
- (I) the state of Texas or an agency of the state; or

- (J) a person not otherwise an electric utility who:
- (i) furnishes an electric service or commodity only to itself, its employees, or its tenants as an incident of employment or tenancy, if that service or commodity is not resold to or used by others;
  - (ii) owns or operates in this state equipment or facilities to produce, generate, transmit, distribute, sell or furnish electric energy to an electric utility, if the equipment or facilities are used primarily to produce and generate electric energy for consumption by that person; or
  - (iii) owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Texas Utilities Code, Chapter 184, Subchapter C.

~~(79)(78)~~ **Element** -- Unbundled network elements, including: interconnection, physical-collocation, and virtual-collocation elements.

~~(80)(79)~~ **Eligible telecommunications provider (ETP) service area** -- The geographic area, determined by the commission, containing high cost rural areas which are eligible for Texas Universal Service Funds support under §26.403 or §26.404 of this title (relating to Texas High Cost Universal Service Plan (THCUSP) and Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan).

~~(81)(80)~~ **Embedded customer premises equipment** -- All customer premises equipment owned by a telecommunications utility, including inventory, which was tariffed or subject to the separations process of January 1, 1983.

~~(82)(81)~~ **Emergency service number (ESN)** -- A three to five digit number representing a unique combination of emergency service agencies designated to serve a specific range of

addresses within a particular geographic area. The ESN facilitates any required selective routing and selective transfer to the appropriate public safety answering point and the dispatching of the proper service agencies.

~~(83)(82)~~ Emergency service zone (ESZ) -- A geographic area that has common law enforcement, fire, and emergency medical services personnel that respond to 9-1-1 calls.

~~(84)(83)~~ End user choice -- A system that allows the automatic routing of interexchange, operator-assisted calls to the billed party's chosen carrier without the use of access codes.

~~(85)(84)~~ Enhanced service provider -- A company that offers computer-based services over transmission facilities to provide the customer with value-added telephone services.

~~(86)(85)~~ Entrance facilities -- The transmission path between the access customer's (such as an interexchange carrier) point of demarcation and the serving wire center.

~~(87)(86)~~ Equal access -- Access which is equal in type, quality and price to Feature Group C, and which has unbundled rates. From an end user's perspective, equal access is characterized by the availability of "1-plus" dialing with the end user's carrier of choice.

~~(88)(87)~~ Exchange area -- The geographic territory delineated as an exchange area by official commission boundary maps. An exchange area usually embraces a city or town and its environs. There is usually a uniform set of charges for telecommunications service within the exchange area. An exchange area may be served by more than one central office and/or one certificated telephone utility. An exchange area may also be referred to as an exchange.

~~(89)(88)~~ Expenses -- Costs incurred in the provision of services that are expensed, rather than capitalized, in accordance with the Uniform System of Accounts applicable to the carrier.

~~(90)~~(89) Experimental service -- A new service that is proposed to be offered on a temporary basis for a specified period not to exceed one year from the date the service is first provided to any customer.

~~(91)~~(90) Extended area service (EAS) -- A telephone switching and trunking arrangement which provides for optional calling service by DCTUs within a local access and transport area and between two contiguous exchanges or between an exchange and a contiguous metropolitan exchange local calling area. For purposes of this definition, a metropolitan exchange local calling area shall include all exchanges having local or mandatory EAS calling throughout all portions of any of the following exchanges: Austin metropolitan exchange, Corpus Christi metropolitan exchange, Dallas metropolitan exchange, Fort Worth metropolitan exchange, Houston metropolitan exchange, San Antonio metropolitan exchange, or Waco metropolitan exchange. EAS is provided at rate increments in addition to local exchange rates, rather than at toll message charges.

~~(92)~~(91) Extended local calling service (ELCS) -- Service provided pursuant to §26.219 and §26.221 of this title (relating to Administration of Expanded Local Calling Requests; and Applications to Establish or Increase Expanded Local Calling Service Surcharges).

~~(93)~~(92) E911 or E9-1-1 -- 9-1-1 service that is capable of providing automatic number identification, automatic location identification, selective routing, and selective transfer.

~~(94)~~(93) Facilities -- All the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any public utility, including any construction work in progress allowed by the commission.

~~(95)(94)~~ Facilities-based provider -- A telecommunications provider that provides telecommunications services using facilities that it owns or leases or a combination of facilities that it owns and leases, including unbundled network elements.

~~(96)(95)~~ Foreign exchange (FX) -- Exchange service furnished by means of a circuit connecting a customer's station to a primary serving office of another exchange.

~~(97)(96)~~ Foreign serving office (FSO) -- Exchange service furnished by means of a circuit connecting a customer's station to a serving office of the same exchange but outside of the serving office area in which the station is located.

~~(98)(97)~~ Forward-looking common costs -- Economic costs efficiently incurred in providing a group of elements or services that cannot be attributed directly to individual elements or services.

~~(99)(98)~~ Forward-looking economic cost -- The sum of the total element long-run incremental cost of an element and a reasonable allocation of its forward-looking common costs.

~~(100)(99)~~ Forward-looking economic cost per unit -- The forward-looking economic cost of the element as defined in this section, divided by a reasonable projection of the sum of the total number of units of the element that the DCTU is likely to provide to requesting telecommunications carriers and the total number of units of the element that the DCTU is likely to use in offering its own services, during a reasonable time period.

~~(101)(100)~~ Geographic scope -- The geographic area in which the holder of a COA or of a SPCOA is authorized to provide service.

~~(102)(101)~~ Grade of service -- The number of customers a line is designated to serve.

~~(103)~~ Health Center -- A federally qualified health center service delivery site.

~~(104)~~~~(102)~~ Hearing -- Any proceeding at which evidence is taken on the merits of the matters at issue, not including prehearing conferences.

~~(105)~~~~(103)~~ Hearing carryover -- A technology that allows an individual who is speech-impaired to hear the other party in a telephone conversation and to use specialized telecommunications devices to send communications through the telecommunications relay service operator.

~~(106)~~~~(104)~~ High cost area -- A geographic area for which the costs established using a forward-looking economic cost methodology exceed the benchmark levels established by the commission.

~~(107)~~~~(105)~~ High cost assistance (HCA) -- A program administered by the commission in accordance with the provisions of §26.403 of this title.

~~(108)~~~~(106)~~ Identity -- The name, address, telephone number, and/or facsimile number of a person, whether natural, partnership, municipal corporation, cooperative corporation, corporation, association, governmental subdivision, or state agency and the relationship of the person to the entity being represented.

~~(109)~~~~(107)~~ Impulse noise -- Any momentary occurrence of the noise on a channel significantly exceeding the normal noise peaks. It is evaluated by counting the number of occurrences that exceed a threshold. This noise degrades voice and data transmission.

~~(110)~~~~(108)~~ Incumbent local exchange company (ILEC) -- A local exchange company that had a CCN on September 1, 1995.

~~(111)~~~~(109)~~ Informational notice -- That notice required to be filed in connection with nonbasic services, new service offerings, and pricing and packaging flexibility pursuant to Public Utility Regulatory Act Chapters 52, 58, or 59.

~~(112)(410)~~ Information sharing program -- Instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by a library predominantly for such instruction, learning, or training, including video, data, voice, and electronic information.

~~(113)(411)~~ Integrated services digital network (ISDN) -- A digital network architecture that provides a wide variety of communications services, a standard set of user-network messages, and integrated access to the network. Access methods to the ISDN are the Basic Rate Interface (BRI) and the Primary Rate Interface (PRI).

~~(114)(412)~~ Interactive multimedia communications -- Real-time, two-way, interactive voice, video, and data communications conducted over networks that link geographically dispersed locations. This definition includes interactive communications within or between buildings on the same campus or library site.

~~(115)(413)~~ Intercept service -- A service arrangement provided by the local exchange carrier whereby calls placed to a disconnected or discontinued telephone number are intercepted and the calling party is informed by an operator or by a recording that the called telephone number has been disconnected, discontinued, changed to another number, or otherwise is not in service.

~~(116)(414)~~ Interconnection -- Generally means: The point in a network where a customer's transmission facilities interface with the dominant carrier's network under the provisions of this section. More particularly it means: The termination of local traffic including basic telecommunications service as delineated in §26.403 of this title or integrated services digital network (ISDN) as defined in this section and/or EAS/ELCS traffic of a CTU using the local access lines of another CTU, as described in §26.272(d)(4)(A) of

this title (relating to Interconnection). Interconnection shall include 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 without permitting access to network proprietary information or customer proprietary network information, as defined in this section, unless otherwise permitted in §26.272 of this title.

~~(117)(115)~~ Interconnector -- A customer that interfaces with the dominant carrier's network under the provisions of §26.271 of this title (relating to Expanded Interconnection).

~~(118)(116)~~ Interexchange carrier (IXC) -- A carrier providing any means of transporting intrastate telecommunications messages between local exchanges, but not solely within local exchanges, in the State of Texas. The term may include a CTU or CTU affiliate to the extent that it is providing such service. An entity is not an IXC solely because of:

- (A) the furnishing, or furnishing and maintenance of a private system;
- (B) the manufacture, distribution, installation, or maintenance of customer premises equipment;
- (C) the provision of services authorized under the FCC's Public Mobile Radio Service and Rural Radio Service rules; or
- (D) the provision of shared tenant service.

~~(119)(117)~~ Internet Protocol (IP) -- A data communication protocol used in communicating data from one computer to another on the Internet or other networks.

(120) Internet Protocol enabled service -- a service, capability, functionality, or application that uses Internet Protocol or a successor protocol to allow an end user to send or receive a data, video, or voice communication in Internet Protocol or a successor protocol.

~~(121)(418)~~ Interoffice trunks -- Those communications circuits which connect central offices.

~~(122)(419)~~ IntraLATA equal access -- The ability of a caller to complete a toll call in a local access and transport area (LATA) using his or her provider of choice by dialing "1" or "0" plus an area code and telephone number.

~~(123)(420)~~ Intrastate -- Refers to communications which both originate and terminate within Texas state boundaries.

~~(124)(421)~~ Least cost technology -- The technology or mix of technologies that would be chosen in the long run as the most economically efficient choice. The choice of least cost technologies, however, shall:

- (A) be restricted to technologies that are currently available on the market and for which vendor prices can be obtained;
- (B) be consistent with the level of output necessary to satisfy current demand levels for all services using the basic network function in question; and
- (C) be consistent with overall network design and topology requirements.

~~(125)(422)~~ License -- The whole or part of any commission permit, certificate, approval, registration, or similar form of permission required by law.

~~(126)(423)~~ Licensing -- The commission process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

~~(127)(424)~~ Lifeline Service -- A program certified by the Federal Communications Commission to provide for the reduction or waiver of the federal subscriber line charge for residential consumers.

~~(128)(125)~~ Line -- A circuit or channel extending from a central office to the customer's location to provide telecommunications service. One line may serve one customer, or all customers served by a multiparty line.

~~(129)(126)~~ Local access and transport area (LATA) -- A geographic area established for the provision and administration of communications service. It encompasses one or more designated exchanges, which are grouped to serve common social, economic and other purposes. For purposes of these rules, market areas, as used and defined in the Modified Final Judgment and the GTE Final Judgment, are encompassed in the term local access and transport area.

~~(130)(127)~~ Local call -- A call within the certificated telephone utility's toll-free calling area including calls which are made toll-free through a mandatory EAS or expanded local calling (ELC) proceeding.

~~(131)(128)~~ Local calling area -- The area within which telecommunications service is furnished to customers under a specific schedule of exchange rates. A local calling area may include more than one exchange area.

~~(132)(129)~~ Local exchange carrier (LEC) -- A telecommunications utility that has been granted either a certificate of convenience and necessity or a COA to provide local exchange telephone service, basic local telecommunications service, or switched access service within the state. A local exchange company is also referred to as a local exchange carrier.

~~(133)(130)~~ Local exchange telephone service or local exchange service -- A telecommunications service provided within an exchange to establish connections between customer premises within the exchange, including connections between a customer premises and a long

distance provider serving the exchange. The term includes tone dialing service, service connection charges, and directory assistance services offered in connection with basic local telecommunications service and interconnection with other service providers. The term does not include the following services, whether offered on an intra-exchange or inter-exchange basis:

- (A) central office based PBX-type services for systems of 75 stations or more;
- (B) billing and collection services;
- (C) high-speed private line services of 1.544 megabits or greater;
- (D) customized services;
- (E) private line or virtual private line services;
- (F) resold or shared local exchange telephone services if permitted by tariff;
- (G) dark fiber services;
- (H) non-voice data transmission service offered as a separate service and not as a component of basic local telecommunications service;
- (I) dedicated or virtually dedicated access services;
- (J) a competitive exchange service; or
- (K) any other service the commission determines is not a "local exchange telephone service."

~~(134)(131)~~ Local message -- A completed call between customer access lines located within the same local calling area.

~~(135)(132)~~ Local message charge -- The charge that applies for a completed telephone call that is made when the calling customer access line and the customer access line to which the

connection is established are both within the same local calling area, and a local message charge is applicable.

~~(136)~~~~(133)~~ Local service charge -- The charge for furnishing facilities to enable a customer to send or receive telecommunications within the local calling area. This local calling area may include more than one exchange area.

~~(137)~~~~(134)~~ Local telecommunications traffic --

- (A) Telecommunications traffic between a DCTU and a telecommunications carrier other than a commercial mobile radio service (CMRS) provider that originates and terminates within the mandatory single or multi-exchange local calling area of a DCTU including the mandatory EAS areas served by the DCTU; or
- (B) Telecommunications traffic between a DCTU and a CMRS provider that, at the beginning of the call, originates and terminates within the same major trading area.

~~(138)~~~~(135)~~ Long distance telecommunications service -- That part of the total communication service rendered by a telecommunications utility which is furnished between customers in different local calling areas in accordance with the rates and regulations specified in the utility's tariff.

~~(139)~~~~(136)~~ Long run -- A time period long enough to be consistent with the assumption that the company is in the planning stage and all of its inputs are variable and avoidable.

~~(140)~~~~(137)~~ Long run incremental cost (LRIC) -- The change in total costs of the company of producing an increment of output in the long run when the company uses least cost technology. The LRIC should exclude any costs that, in the long run, are not brought into existence as a direct result of the increment of output.

~~(141)(138)~~ Mandatory minimum standards -- The standards established by the Federal Communications Commission, outlining basic mandatory telecommunication relay services.

~~(142)~~ Market -- An exchange in which an incumbent local exchange company provides residential local exchange telephone service.

~~(143)(139)~~ Master street address guide (MSAG) -- A database maintained by each 9-1-1 administrative entity of street names and house number ranges within their associated communities defining emergency service zones and their associated emergency service numbers to enable proper routing of 9-1-1 calls.

~~(144)(140)~~ Meet point billing -- An access billing arrangement for services to access customers when local transport is jointly provided by more than one CTU.

~~(145)(141)~~ Message -- A completed customer telephone call.

~~(146)(142)~~ Message rate service -- A form of local exchange service under which all originated local messages are measured and charged for in accordance with the utility's tariff.

~~(147)(143)~~ Minor change -- A change, including the restructuring of rates of existing services, that decreases the rates or revenues of the small local exchange company (SLEC) or that, together with any other rate or proposed or approved tariff changes in the 12 months preceding the date on which the proposed change will take effect, results in an increase of the SLEC's total regulated intrastate gross annual revenues by not more than 5.0%. Further, with regard to a change to a basic local access line rate, a minor change may not, together with any other change to that rate that went into effect during the 12 months preceding the proposed effective date of the proposed change, result in an increase of more than 50%~~10%~~.

~~(148)(144)~~ Municipality -- A city, incorporated village, or town, existing, created, or organized under the general, home rule, or special laws of the state.

~~(149)(145)~~ National integrated services digital network (ISDN) -- The standards and services promulgated for integrated services digital network by Bellcore.

~~(150)(146)~~ Negotiating party -- A CTU or other entity with which a requesting CTU seeks to interconnect in order to complete all telephone calls made by or placed to a customer of the requesting CTU.

~~(151)(147)~~ Next generation 9-1-1 system (NG9-1-1 system) -- A system of securely managed IP-based 9-1-1 networks and elements that augment and are capable of interoperating with present-day E9-1-1 features and functions and add new capabilities. NG9-1-1 may replace or complement the present E9-1-1 system. NG9-1-1 is designed to provide access to emergency services from all sources, and to provide multimedia data capabilities for public safety answering positions and other emergency service organizations.

~~(152)(148)~~ New service -- Any service not offered on a tariffed basis prior to the date of the application relating to such service and specifically excludes basic local telecommunications service including local measured service. If a proposed service could serve as an alternative or replacement for a service offered prior to the date of the new-service application and does not provide significant improvements (other than price) over, or significant additional services not available under, a service offered prior to the date of such application, it shall not be considered a new service.

~~(153)(149)~~ Nonbasic services -- Those services identified in Public Utility Regulatory Act §58.151, including any service reclassified by the commission pursuant to Public Utility Regulatory Act §58.024.

~~(154)(150)~~ Non-discriminatory -- Type of treatment that is not less favorable than that an interconnecting CTU provides to itself or its affiliates or other CTUs.

~~(155)(151)~~ Non-dominant certificated telecommunications utility (NCTU) -- A CTU that is not a DCTU and has been granted a CCN (after September 1, 1995, in an area already certificated to a DCTU), a COA, or a SPCOA to provide local exchange service.

~~(156)(152)~~ Nondominant carrier --

- (A) An interexchange telecommunications carrier (including a reseller of interexchange telecommunications services).
- (B) Any of the following that is not a dominant carrier:
  - (i) a specialized communications common carrier;
  - (ii) any other reseller of communications;
  - (iii) any other communications carrier that conveys, transmits, or receives communications in whole or in part over a telephone system; or
  - (iv) a provider of operator services that is not also a subscriber.

~~(157)(153)~~ North American Numbering Plan (NANP) -- Use of 10-digit dialing in the format of a 3-digit "NPA" followed by a 3-digit "NXX" and a 4-digit line number, NPA-NXX-XXX.

~~(158)(154)~~ Numbering plan area (NPA) -- The first three digits of a ten-digit North American Numbering Plan (NANP) local telephone number uniquely identifying a Numbering Plan area. Generally referred to as the area code of a NANP telephone number.

~~(159)(155)~~ NXX -- A 3-digit code in which N is any digit 2 through 9 and X is any digit 0 through 9. Typically used in describing the “Exchange Code” fields of a North American Numbering Plan telephone number.

~~(160)(156)~~ Open network architecture -- The overall design of an ILEC’s network facilities and services to permit all users of the network, including the enhanced services operations of an ILEC and its competitors, to interconnect to specific basic network functions on an unbundled and non-discriminatory basis.

~~(161)(157)~~ Operator service -- Any service using live operator or automated operator functions for the handling of telephone service, such as local collect, toll calling via collect, third number billing, credit card, and calling card services. The transmission of “1-800” and “1-888” numbers, where the called party has arranged to be billed, is not operator service.

~~(162)(158)~~ Operator service provider (OSP) -- Any person or entity that provides operator services by using either live or automated operator functions. When more than one entity is involved in processing an operator service call, the party setting the rates shall be considered to be the OSP. However, subscribers to customer-owned pay telephone service shall not be deemed to be OSPs.

~~(163)(159)~~ Originating line screening (OLS) -- A two digit code passed by the local switching system with the automatic number identification (ANI) at the beginning of a call that provides information about the originating line.

~~(164)(160)~~ Out-of-service trouble report -- An initial customer trouble report in which there is complete interruption of incoming or outgoing local exchange service. On multiple line services a failure of one central office line or a failure in common equipment affecting all lines is considered out of service. If an extension line failure does not result in the

complete inability to receive or initiate calls, the report is not considered to be out of service.

~~(165)(161)~~ P.01 grade of service -- A standard of service quality intended to measure the probability (P), expressed as a decimal fraction, of a telephone call being blocked. P.01 is the grade of service reflecting the probability that one call out of one hundred during the average busy house will be blocked.<sup>22</sup>

~~(166)~~ Packaged Service - the combination of any regulated service with any other regulated or unregulated service or with any service of an affiliate, offered to customers at a packaged rate.

~~(167)(162)~~ Partial deregulation -- The ability of a cooperative to offer new services on an optional basis and/or change its rates and tariffs under the provisions of the Public Utility Regulatory Act, §§53.351 - 53.359.

~~(168)(163)~~ Pay-per-call-information services -- Services that allow a caller to dial a specified 1-900-XXX-XXXX or 976-XXXX number. Such services routinely deliver, for a predetermined (sometimes time-sensitive) fee, a pre-recorded or live message or interactive program. Usually a telecommunications utility will transport the call and bill the end-user on behalf of the information provider.

~~(169)(164)~~ Pay telephone access service (PTAS) -- A service offered by a CTU which provides a two-way, or optionally, a one-way originating-only business access line composed of the serving central office line equipment, all outside plant facilities needed to connect the serving central office with the customer premises, and the network interface; this service is sold to pay telephone service providers.

~~(170)(165)~~ Pay telephone service (PTS) -- A telecommunications service utilizing any coin, coinless, credit card reader, or cordless instrument that can be used by members of the general public, or business patrons, employees, and/or visitors of the premises' owner, provided that the end user pays for local or toll calls from such instrument on a per call basis. Pay per call telephone service provided to inmates of confinement facilities is PTS. For purposes of this section, coinless telephones provided in guest rooms by a hotel/motel are not pay telephones. A telephone that is primarily used by business patrons, employees, and/or visitors of the premises' owner is not a pay telephone if all local calls and "1-800" and "1-888" type calls from such telephone are free to the end user.

~~(171)(166)~~ Per-call blocking -- A telecommunications service provided by a telecommunications provider that prevents the transmission of calling party information to a called party on a call-by-call basis.

~~(172)(167)~~ Per-line blocking -- A telecommunications service provided by a telecommunications utility that prevents the transmission of calling party information to a called party on every call, unless the calling party acts affirmatively to release calling party information.

~~(173)(168)~~ Percent interstate usage (PIU) -- An access customer-specific ratio or ratios determined by dividing interstate access minutes by total access minutes. The specific ratio shall be determined by the CTU unless the CTU's network is incapable of determining the jurisdiction of the access minutes. A PIU establishes the jurisdiction of switched access usage for determining rates charged to switched access customers and affects the allocation of switched access revenue and costs by CTUs between the interstate and intrastate jurisdictions.

~~(174)(169)~~ Person -- Any natural person, partnership, municipal corporation, cooperative corporation, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

~~(175)(170)~~ Pleading -- A written document submitted by a party, or a person seeking to participate in a proceeding, setting forth allegations of fact, claims, requests for relief, legal argument, and/or other matters relating to a proceeding.

~~(176)(171)~~ Prepaid local telephone service (PLTS) -- Prepaid local telephone service means:

- (A) voice grade dial tone residential service consisting of flat rate service or local measured service, if chosen by the customer and offered by the DCTU;
- (B) if applicable, mandatory services, including EAS, extended metropolitan service, or ELCS;
- (C) tone dialing service;
- (D) access to 911 service;
- (E) access to dual party relay service;
- (F) the ability to report service problems seven days a week;
- (G) access to business office;
- (H) primary directory listing;
- (I) toll blocking service; and
- (J) non-published service and non-listed service at the customer's option.

~~(177)(172)~~ Premises -- A tract of land or real estate including buildings and other appurtenances thereon.

~~(178)(173)~~ Pricing flexibility -- Discounts and other forms of pricing flexibility may not be preferential, prejudicial, or discriminatory. Pricing flexibility includes:

- (A) customer specific contracts;
- (B) volume, term, and discount pricing;
- (C) zone density pricing;
- (D) packaging of services; and
- (E) other promotional pricing flexibility.

~~(179)(174)~~ Primary interexchange carrier (PIC) -- The provider chosen by a customer to carry that customer's toll calls.

~~(180)(175)~~ Primary interexchange carrier (PIC) freeze indicator -- An indicator that the end user has directed the CTU to make no changes in the end user's PIC.

~~(181)(176)~~ Primary rate interface (PRI) integrated services digital network (ISDN) -- One of the access methods to ISDN, the 1.544-Mbps PRI comprises either twenty-three 64 Kbps B-channels and one 64 Kbps D-channel (23B+D) or twenty-four 64 Kbps B-channels (24B) when the associated call signaling is provided by another PRI in the group.

~~(182)(177)~~ Primary service -- The initial provision of voice grade access between the customer's premises and the switched telecommunications network. This includes the initial connection to a new customer or the move of an existing customer to a new premises but does not include complex services.

~~(183)(178)~~ Print translations -- The temporary storage of a message in an operator's screen during the actual process of relaying a conversation.

~~(184)(179)~~ Privacy issue -- An issue that arises when a telecommunications provider proposes to offer a new telecommunications service or feature that would result in a change in the outflow of information about a customer. The term privacy issue is to be construed broadly. It includes, but is not limited to, changes in the following:

- (A) the type of information about a customer that is released;
- (B) the customers about whom information is released;
- (C) the entity or entities to whom the information about a customer is released;
- (D) the technology used to convey the information;
- (E) the time at which the information is conveyed; and
- (F) any other change in the collection, use, storage, or release of information.

~~(185)(180)~~ Private line -- A transmission path that is dedicated to a customer and that is not connected to a switching facility of a telecommunications utility, except that a dedicated transmission path between switching facilities of interexchange carriers shall be considered a private line.

~~(186)(181)~~ Proceeding -- A hearing, investigation, inquiry, or other procedure for finding facts or making a decision. The term includes a denial of relief or dismissal of a complaint. It may be rulemaking or non-rulemaking; rate setting or non-rate setting.

~~(187)(182)~~ Promotional rate -- A temporary tariff, fare, toll, rental or other compensation charged by a certificated telecommunications utility (CTU) to new or new and existing customers and designed to induce customers to test a service. A promotional rate shall incorporate a reduction or a waiver of some rate element in the tariffed rates of the service, or a reduction or waiver of the service's installation charge and/or service connection charges, and shall not incorporate any charge for discontinuance of the service by the customer. Such rates may not be offered for basic local telecommunications service, including local measured service.

(188) Promotional Service - a service offered to customers at a promotional rate.

~~(189)(183)~~ Provider of pay telephone service -- The entity that purchases PTAS from a CTU and registers with the Public Utility Commission as a provider of PTS to end users.

~~(190)(184)~~ Public safety answering point (PSAP) -- A continuously operated communications facility established or authorized by local government authorities that answers 9-1-1 calls originating within a given service area, as further defined in Texas Health and Safety Code Chapters 771 and 772.

~~(191)(185)~~ Public utility or utility -- A person or river authority that owns or operates for compensation in this state equipment or facilities to convey, transmit, or receive communications over a telephone system as a dominant carrier. The term includes a lessee, trustee, or receiver of any of those entities, or a combination of those entities. The term does not include a municipal corporation. A person is not a public utility solely because the person:

- (A) furnishes or furnishes and maintains a private system;
- (B) manufactures, distributes, installs, or maintains customer premises communications equipment and accessories; or
- (C) furnishes a telecommunications service or commodity only to itself, its employees, or its tenants as an incident of employment or tenancy, if that service or commodity is not resold to or used by others.

~~(192)(186)~~ Public Utility Regulatory Act (PURA) -- The enabling statute for the Public Utility Commission of Texas, located in the Texas Utilities Code Annotated, §§11.001 - 66.016, (Vernon 2007, Supplement 2010).

~~(193)(187)~~ Qualifying low-income consumer -- A consumer that participates in one of the following programs: Medicaid, food stamps, Supplemental Security Income, federal public housing assistance, or Low-Income Home Energy Assistance Program.

~~(194)(188)~~ Qualifying services --

- (A) residential flat rate basic local exchange service;
- (B) residential local exchange access service; and
- (C) residential local area calling usage.

~~(195)(189)~~ Rate -- Includes:

- (A) any compensation, tariff, charge, fare, toll, rental, or classification that is directly or indirectly demanded, observed, charged, or collected by a public utility for a service, product, or commodity, described in the definition of utility in the Public Utility Regulatory Act §31.002 or §51.002; and
- (B) a rule, practice, or contract affecting the compensation, tariff, charge, fare, toll, rental, or classification.

~~(196)(190)~~ Reciprocal compensation -- An arrangement between two carriers in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of local telecommunications traffic that originates on the network facilities of the other carrier.

~~(197)(191)~~ Reclassification area -- The geographic area within the electing ILEC's territory, consisting of one or more exchange areas, for which it seeks reclassification of a service.

~~(198)(192)~~ Redirect the call -- A procedure used by operator service providers (OSPs) that transmits a signal back to the originating telephone instrument that causes the instrument

to disconnect the OSP's connection and to redial the digits originally dialed by the caller directly to the local exchange carrier's network.

~~(199)(193)~~ Regional planning commission -- The meaning established in Texas Health and Safety Code §771.001(10).

~~(200)(194)~~ Regulatory authority -- In accordance with the context where it is found, either the commission or the governing body of a municipality.

~~(201)(195)~~ Relay Texas Advisory Committee (RTAC) -- The committee authorized by the Public Utility Regulatory Act, §56.110 and 1997 Texas General Laws Chapter 149.

~~(202)(196)~~ Relay Texas -- The name by which telecommunications relay service in Texas is known.

~~(203)(197)~~ Relay Texas administrator -- The individual employed by the commission to oversee the administration of statewide telecommunications relay service.

~~(204)(198)~~ Repeated trouble report -- A customer trouble report regarding a specific line or circuit occurring within 30 days or one calendar month of a previously cleared trouble report on the same line or circuit.

~~(205)(199)~~ Residual charge -- The per-minute charge designed to account for historical contribution to joint and common costs made by switched transport services.

~~(206)(200)~~ Retail service -- A telecommunications service is considered a retail service when it is provided to residential or business end users and the use of the service is other than resale. Each tariffed or contract offering which a customer may purchase to the exclusion of other offerings shall be considered a service. For example: the various mileage bands for standard toll services are rate elements, not services; however, individual optional

calling plans that can be purchased individually and which are offered as alternatives to each other are services, not rate elements.

~~(207)(201)~~ Return-on-assets -- After-tax net operating income divided by total assets.

~~(208)(202)~~ Reversal of partial deregulation -- The ability of a minimum of 10% of the members of a partially deregulated cooperative to request, in writing, that a vote be conducted to determine whether members prefer to reverse partial deregulation. Ten percent shall be calculated based upon the total number of members of record as of the calendar month preceding receipt of the request from members for reversal of partial deregulation.

~~(209)(203)~~ Rule -- A statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the commission. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the commission and not affecting private rights or procedures.

~~(210)(204)~~ Rulemaking proceeding -- A proceeding conducted pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, to adopt, amend, or repeal a commission rule.

~~(211)(205)~~ Rural incumbent local exchange company (ILEC) -- An ILEC that qualifies as a "rural telephone company" as defined in 47 United States Code §3(37) and/or 47 United States Code §251(f)(2).

~~(212)(206)~~ Selective routing -- The feature provided with 9-1-1 or 311 service by which 9-1-1 or 311 calls are automatically directed to the appropriate answering point for serving the location from which the call originates.

~~(213)~~~~(207)~~ Selective transfer -- A public safety answering point initiating the routing of a 9-1-1 call to a response agency by operation of one of several buttons typically designated as police, fire, and emergency medical, based on the emergency service number of the caller.

~~(214)~~~~(208)~~ Separation -- The division of plant, revenues, expenses, taxes, and reserves applicable to exchange or local service if these items are used in common to provide public utility service to both local exchange telephone service and other service, such as interstate or intrastate toll service.

~~(215)~~~~(209)~~ Service -- Has its broadest and most inclusive meaning. The term includes any act performed, anything supplied, and any facilities used or supplied by a public utility in the performance of the utility's duties under the Public Utility Regulatory Act to its patrons, employees, other public utilities, and the public. The term also includes the interchange or facilities between two or more public utilities. The term does not include the printing, distribution, or sale of advertising in a telephone directory.

~~(216)~~~~(210)~~ Service connection charge -- A charge designed to recover the costs of non-recurring activities associated with connection of local exchange telephone service.

~~(217)~~~~(211)~~ Service order system -- The system used by a telecommunications provider that, among other functions, tracks customer service requests and billing data.

~~(218)~~~~(212)~~ Service provider -- Any entity that offers a product or service to a customer and that directly or indirectly charges to or collects from a customer's bill an amount for the product or service on a customer's bill received from a billing telecommunications utility.

~~(219)~~~~(213)~~ Service provider certificate of operating authority (SPCOA) reseller -- A holder of a service provider certificate of operating authority that uses only resold

telecommunications services provided by an ILEC or by a COA holder or by a SPCOA holder.

~~(220)(214)~~ Service restoral charge -- A charge applied by the DCTU to restore service to a customer's telephone line after it has been suspended by the DCTU.

~~(221)(215)~~ Serving wire center (SWC) -- The CTU designated central office which serves the access customer's point of demarcation.

~~(222)(216)~~ Signaling for tandem switching -- The carrier identification code (CIC) and the OZZ code or equivalent information needed to perform tandem switching functions. The CIC identifies the interexchange carrier and the OZZ digits identify the call type and thus the interexchange carrier trunk to which traffic should be routed.

~~(223)(217)~~ Small certificated telecommunications utility (CTU) -- A CTU with fewer than 2.0% of the nation's subscriber lines installed in the aggregate nationwide.

~~(224)(218)~~ Small local exchange company (SLEC) -- Any incumbent CTU as of September 1, 1995, that has fewer than 31,000 access lines in service in this state, including the access lines of all affiliated incumbent local exchange companies within the state, or a telephone cooperative organized pursuant to the Telephone Cooperative Act, Texas Utilities Code Annotated, Chapter 162.

~~(225)(219)~~ Small incumbent local exchange company (Small ILEC) -- An ILEC that is a cooperative corporation or has, together with all affiliated ILECs, fewer than 31,000 access lines in service in Texas.

~~(226)(220)~~ Spanish speaking person -- A person who speaks any dialect of the Spanish language exclusively or as their primary language.

~~(227)~~~~(221)~~ Special access -- A transmission path connecting customer designated premises to each other either directly or through a hub or hubs where bridging, multiplexing or network reconfiguration service functions are performed and includes all exchange access not requiring switching performed by the dominant carrier's end office switches.

~~(228)~~~~(222)~~ Specialized Telecommunications Assistance Program (STAP) -- The program described in §26.415 of this title (relating to Specialized Telecommunications Assistance Program (STAP)).

~~(229)~~~~(223)~~ Specialized Telecommunications Assistance Program (STAP) voucher -- A voucher issued by the Texas Department of Assistive and Rehabilitative Services under the equipment distribution program, in accordance with its rules, that an eligible individual may use to acquire eligible specialized telecommunications devices from a vendor of such equipment.

~~(230)~~~~(224)~~ Stand-alone costs -- The stand-alone costs of an element or service are defined as the forward-looking costs that an efficient entrant would incur in providing only that element or service.

~~(231)~~~~(225)~~ Station -- A telephone instrument or other terminal device.

~~(232)~~~~(226)~~ Study area -- An incumbent local exchange company's (ILEC's) existing service area in a given state.

~~(233)~~~~(227)~~ Supplemental services -- Telecommunications features or services offered by a CTU for which analogous services or products may be available to the customer from a source other than a DCTU. Supplemental services shall not be construed to include optional extended area calling plans that a DCTU may offer pursuant to §26.217 of this title (relating to Administration of Extended Area Service (EAS) Requests), or pursuant to a

final order of the commission in a proceeding pursuant to the Public Utility Regulatory Act, Chapter 53.

~~(234)(228)~~ Suspension of service -- That period during which the customer's telephone line does not have dial tone but the customer's telephone number is not deleted from the central office switch and databases.

~~(235)(229)~~ Switched access -- Access service that is provided by CTUs to access customers and that requires the use of CTU network switching or common line facilities generally, but not necessarily, for the origination or termination of interexchange calls. Switched access includes all forms of transport provided by the CTU over which switched access traffic is delivered.

~~(236)(230)~~ Switched access demand -- Switched access minutes of use, or other appropriate measure where not billed on a minute of use basis, for each switched access rate element, normalized for out of period billings. For the purposes of this section, switched access demand shall include minutes of use billed for the local switching rate element.

~~(237)(231)~~ Switched access minutes -- The measured or assumed duration of time that a CTU's network facilities are used by access customers. Access minutes are measured for the purpose of calculating access charges applicable to access customers.

~~(238)(232)~~ Switched transport -- Transmission between a CTU's central office (including tandem-switching offices) and an interexchange carrier's point of presence.

~~(239)(233)~~ Tandem-switched transport -- Transmission of traffic between the serving wire center and another CTU office that is switched at a tandem switch and charged on a usage basis.

~~(240)~~~~(234)~~ Tariff -- The schedule of a utility containing all rates, tolls, and charges stated separately by type or kind of service and the customer class, and the rules and regulations of the utility stated separately by type or kind of service and the customer class.

~~(241)~~~~(235)~~ Telecommunications provider -- As defined in the Public Utility Regulatory Act §51.002(10).

~~(242)~~~~(236)~~ Telecommunications relay service (TRS) -- A service using oral and print translations by either live or automated means between individuals who are hearing-impaired or speech-impaired who use specialized telecommunications devices and others who do not have such devices. Unless specified in the text, this term shall refer to intrastate telecommunications relay service only.

~~(243)~~~~(237)~~ Telecommunications relay service (TRS) carrier -- The telecommunications carrier selected by the commission to provide statewide telecommunications relay service.

~~(244)~~~~(238)~~ Telecommunications utility --

- (A) a public utility;
- (B) an interexchange telecommunications carrier, including a reseller of interexchange telecommunications services;
- (C) a specialized communications common carrier;
- (D) a reseller of communications;
- (E) a communications carrier who conveys, transmits, or receives communications wholly or partly over a telephone system;
- (F) a provider of operator services as defined by §55.081, unless the provider is a subscriber to customer-owned PTS; and

(G) a separated affiliate or an electronic publishing joint venture as defined in the Public Utility Regulatory Act, Chapter 63.

~~(245)(239)~~ Telephones intended to be utilized by the public -- Telephones that are accessible to the public, including, but not limited to, pay telephones, telephones in guest rooms and common areas of hotels, motels, or other lodging locations, and telephones in hospital patient rooms.

~~(246)(240)~~ Telephone solicitation -- An unsolicited telephone call.

~~(247)(241)~~ Telephone solicitor -- A person who makes or causes to be made a consumer telephone call, including a call made by an automatic dialing/announcing device.

~~(248)(242)~~ Test year -- The most recent 12 months, beginning on the first day of a calendar or fiscal year quarter, for which operating data for a public utility are available.

~~(249)(243)~~ Texas Universal Service Fund (TUSF) -- The fund authorized by the Public Utility Regulatory Act, §56.021 and 1997 Texas General Laws Chapter 149.

~~(250)(244)~~ Tier 1 local exchange company -- A local exchange company with annual regulated operating revenues exceeding \$100 million.

~~(251)(245)~~ Title IV-D Agency -- The office of the attorney general for the state of Texas.

~~(252)(246)~~ Toll blocking -- A service provided by telecommunications carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

~~(253)(247)~~ Toll control -- A service provided by telecommunications carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

~~(254)(248)~~ Toll limitation -- Denotes both toll blocking and toll control.

~~(255)(249)~~ Total element long-run incremental cost (TELRIC) -- The forward-looking cost over the long run of the total quantity of the facilities and functions that are directly attributable to, or reasonably identifiable as incremental to, such element, calculated taking as a given the CTU's provision of other elements.

~~(256)~~ Transitioning company -- An incumbent local exchange company for which at least one, but not all, of the company's markets has been deregulated.

~~(257)(250)~~ Transport -- The transmission and/or any necessary tandem and/or switching of local telecommunications traffic from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than a DCTU.

~~(258)(251)~~ Trunk -- A circuit facility connecting two switching systems.

~~(259)(252)~~ Two-primary interexchange carrier (Two-PIC) equal access -- A method that allows a telephone subscriber to select one carrier for all 1+ and 0+ interLATA calls and the same or a different carrier for all 1+ and 0+ intraLATA calls.

~~(260)(253)~~ Unauthorized charge -- Any charge on a customer's telephone bill that was not consented to or verified in compliance with §26.32 of this title (relating to Protection Against Unauthorized Billing Charges ("Cramming")).

~~(261)(254)~~ Unbundling -- The disaggregation of the ILEC's network/service to make available the individual network functions or features or rate elements used in providing an existing service.

~~(262)(255)~~ Unit cost -- A cost per unit of output calculated by dividing the total long run incremental cost of production by the total number of units.

~~(263)(256)~~ Usage sensitive blocking -- Blocking of a customer's access to services which are charged on a usage sensitive basis for completed calls. Such calls shall include, but not be limited to, call return, call trace, and auto redial.

~~(264)(257)~~ Virtual private line -- Circuits or bandwidths, between fixed locations, that are available on demand and that can be dynamically allocated.

~~(265)(258)~~ Voice carryover -- A technology that allows an individual who is hearing-impaired to speak directly to the other party in a telephone conversation and to use specialized telecommunications devices to receive communications through the telecommunications relay service operator.

~~(266)(259)~~ Voice over Internet Protocol (VoIP) -- The technology used to transmit voice communications using Internet Protocol.

~~(267)~~ Voice over Internet Protocol service -- a service that:

(A) uses Internet Protocol or a successor protocol to enable a real-time, two-way voice communication that originates from or terminates to the user's location in Internet Protocol or a successor protocol;

(B) requires a broadband connection from the user's location; and

(C) permits a user generally to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

~~(268)(260)~~ Volume insensitive costs -- The costs of providing a basic network function (BNF) that do not vary with the volume of output of the services that use the BNF.

~~(269)(261)~~ Volume sensitive costs -- The costs of providing a basic network function (BNF) that vary with the volume of output of the services that use the BNF.

(270) Wireless provider -- A provider that:

(A) provides commercial mobile radio service as defined in (40) of this section; or

(B) utilizes fixed wireless technology to provide local exchange service.

(271)(262) Wholesale service -- A telecommunications service is considered a wholesale service when it is provided to a telecommunications utility and the use of the service is to provide a retail service to residence or business end-user customers.

(272)(263) Working capital requirements -- The additional capital required to fund the increased level of accounts receivable necessary to provide telecommunications service.

(273)(264) "0-" call -- A call made by the caller dialing the digit "0" and no other digits within five seconds. A "0-" call may be made after a digit (or digits) to access the local network is (are) dialed.

(274)(265) "0+" call -- A call made by the caller dialing the digit "0" followed by the terminating telephone number. On some automated call equipment, a digit or digits may be dialed between the "0" and the terminating telephone number.

(275)(266) 311 answering point -- A communications facility that:

- (A) is operated, at a minimum, during normal business hours;
- (B) is assigned the responsibility to receive 311 calls and, as appropriate, to dispatch the non-emergency police or other governmental services, or to transfer or relay 311 calls to the governmental entity;
- (C) is the first point of reception by a governmental entity of a 311 call; and
- (D) serves the jurisdictions in which it is located or other participating jurisdictions.

(276)(267) 311 service -- A telecommunications service provided by a certificated telecommunications provider through which the end user of a public telephone system

has the ability to reach non-emergency police and other governmental services by dialing the digits 3-1-1. 311 service must contain the selective routing feature or other equivalent state-of-the-art feature.

~~(277)(268)~~ 311 service request -- A written request from a governmental entity to a CTU requesting the provision of 311 service. A 311 service request must:

- (A) be in writing;
- (B) contain an outline of the program the governmental entity will pursue to adequately educate the public on the 311 service;
- (C) contain an outline from the governmental entity for implementation of 311 service;
- (D) contain a description of the likely source of funding for the 311 service (i.e., from general revenues, special appropriations, etc.); and
- (E) contain a listing of the specific departments or agencies of the governmental entity that will actually provide the non-emergency police and other governmental services.

~~(278)(269)~~ 311 system -- A system of processing 311 calls.

~~(279)(270)~~ 9-1-1 administrative entity -- A regional planning commission as defined in Texas Health and Safety Code §771.001(10) or an emergency communication district as defined in Texas Health and Safety Code §771.001(3).

~~(280)(271)~~ 9-1-1 database management services provider -- An entity designated by a 9-1-1 administrative entity to provide 9-1-1 database management services that support the provision of 9-1-1 services.

~~(281)~~~~(272)~~ 9-1-1 database services -- Services purchased by a 9-1-1 administrative entity that accepts, processes, and validates subscriber record information of telecommunications providers for purposes of selective routing and automatic location identification, and that may also provide statistical performance measures.

~~(282)~~~~(273)~~ 9-1-1 network services -- Services purchased by a 9-1-1 administrative entity that route 9-1-1 calls from an E9-1-1 selective router, 9-1-1 tandem, next generation 9-1-1 system, Internet Protocol-based 9-1-1 system or its equivalent to public safety answering points or a public safety answering point network.

~~(283)~~~~(274)~~ 9-1-1 network services provider -- A CTU designated by the appropriate 9-1-1 administrative entity to provide 9-1-1 network services in a designated area.

~~(284)~~~~(275)~~ 911 system -- A system of processing emergency 911 calls, as defined in Texas Health and Safety Code §772.001, as may be subsequently amended.

~~(285)~~~~(276)~~ 9-1-1 selective routing tandem switch -- A switch located in a telephone central office that is equipped to accept, process, and route 9-1-1 calls to a predetermined, specific location. Also known as E9-1-1 control office or E9-1-1 selective router.

~~(286)~~~~(277)~~ 9-1-1 service -- As defined in Texas Health and Safety Code §771.001(6) and §772.001(6).

~~(287)~~~~(278)~~ 9-1-1 service agreement -- A contract addressing the 9-1-1 service arrangements for a local area that the appropriate 9-1-1 administrative entity enters into.

~~(288)~~~~(279)~~ 9-1-1 service arrangement -- Each particular arrangement for 9-1-1 emergency service specified by the appropriate 9-1-1 administrative entity for the relevant rate centers within its jurisdictional area and that is subject to a 9-1-1 service agreement.

**§26.22. Request for Service.****(a) Dominant certificated telecommunications utility (DCTU).**

- (1) Every DCTU shall provide local telecommunications service to each qualified applicant for service and to each of its customers within its certificated area in accordance with §26.54(c)(1) of this title (relating to Service Objectives and Performance Benchmarks). A deregulated company that holds a certificate of operating authority is not obligated to be provider of last resort. A transitioning company is not obligated to be provider of last resort in a deregulated market.

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

**(b) (No change.)**

**§26.23. Refusal of Service.**

(a) (No change.)

(b) **Non-dominant certificated telecommunications utility (NCTU).**

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

(3) **Insufficient grounds for refusal to serve.** The following are not sufficient grounds for refusal of basic local telecommunications service to an applicant by an NCTU:

(A) (No change.)

(B) failure to pay for any charges that are not provided in the DCTU's tariffs~~NCTU's tariffs, schedules, or lists on file with the commission in accordance with §26.89 of this title (relating to Information Regarding Rates and Services of Non-dominant Carriers), terms and conditions of service, or customer-specific contracts;~~

(C) - (E) (No change.)

**§26.27. Bill Payment and Adjustments.**

(a) (No change).

(b) **Nondominant certificated telecommunications utility (NCTU).**

(1) – (2) (No change.)

(3) **Billing adjustments.**

A) Overbilling. If charges are higher than the NCTU’s tariff, schedule, or list ~~on file with the commission in accordance with §26.89 of this title (relating to Information Regarding Rates and Services of Nondominant Carriers)~~, terms and conditions of service, or a customer-specific contract, an appropriate refund shall be made to the customer.:-

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

(B) Underbilling. If charges are found to be lower than authorized by the NCTU’s tariff, schedule, or list ~~on file with the commission in accordance with §26.89 of this title~~, terms and conditions of service, or a customer-specific contract, or if the NCTU failed to bill the customer for service, then:

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

(4) - (6) (No change.)

(c) (No change.)

**§26.29. Prepaid Local Telephone Service (PLTS).**

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

~~(k) **Tariff compliance.** A DCTU subject to this section shall file tariffs in compliance with this section, and pursuant to §26.207 of this title (relating to Form and Filing of Tariffs) and §26.208 of this title (relating to General Tariff Procedures).~~

**§26.54. Service Objectives and Performance Benchmarks.**

- (a) This section establishes service objectives that should be provided by a dominant certificated telecommunications utility (DCTU), as applicable. A deregulated company that holds a certificate of operating authority and a transitioning company is exempt from complying with the retail quality of service standards and reporting requirements in this section in a market that is deregulated. The section outlines performance benchmark levels for each exchange. If service quality falls below the applicable performance benchmark for an exchange, that indicates a need for the utility to investigate, take appropriate corrective action, and provide a report of such activities to the commission. The objective service levels are based on monthly averages, except for dial service and transmission requirements, which are based on specific samples. DCTUs shall make measurements to determine the level of service quality for each item included in this section. Each DCTU shall provide the commission with the measurements and summaries for any of the items included herein on request of the commission. Records of these measurements and summaries shall be retained by the DCTU as specified by the commission.
- (b) **One-party line service and voice band data.**
- (1) - (3) (No change.)
- (c) The DCTU shall comply with the service quality objectives established below in providing the basic telecommunications service to its end-use customers. The DCTU shall file its service quality performance report on a quarterly basis. The report shall

include its monthly performance for each category of performance objective and a summary of its corrective action plan for each exchange in which the performance falls below the benchmark. Additionally, the corrective action plan shall include, at a minimum, details outlining how the needed improvements will be implemented within three months and result in performance at or above the applicable benchmark.

(1) **Installation of service.** Unless otherwise provided by the commission:

(A) Ninety-five percent of the DCTU's service orders for installing primary service shall be completed within five working days, excluding those orders where a later date was specifically requested by the customer.

Performance Benchmark Applicable for Corrective Action: If the performance is below 95% in any exchange area for a period of three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchanges or [wire centers](#)~~wirecenters~~.

(B) Ninety percent of the DCTU's service orders for regular service installations shall be completed within five working days, excluding those orders where a later date was specifically requested by the customer. This includes orders for primary and other services, installations, moves, or changes, but not complex services. Performance Benchmark for Corrective Action: If the performance is below 90% in any exchange area for a period of three consecutive months the DCTU shall provide a detailed corrective action plan for such exchanges or [wire centers](#)~~wirecenters~~.

(C) Ninety-nine percent of the DCTU's service orders for service installations shall be completed within 30 days. Performance Benchmark for Corrective Action: If the performance is below 99% in any exchange area for a period of three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or wire center~~wirecenter~~.

(D) - (G) (No change.)

(H) Ninety percent of the DCTU's commitments to customers for the date of installation of service orders shall be met, excepting customer-caused delays. Performance Benchmark Applicable for Corrective Action: If the performance is below 90% in any exchange area for a period of three consecutive months, the DCTU shall submit a list of missed commitments to the commission and provide a detailed corrective action plan for such exchange or wire center~~wirecenter~~.

(I) - (J) (No change.)

(2) **Operator-handled calls.** DCTUs shall maintain adequate personnel to provide an average operator answering performance as follows for each exchange on a monthly basis:

(A) (No change.)

(B) Ninety percent of repair service calls shall be answered within 20 seconds or average answer time shall not exceed 5.9 seconds. Benchmark for Corrective Action: If the performance is below 90% within 20 seconds or the average answer time exceeds 5.9 seconds at any answering location for

a period of five days within any given month, the DCTU shall provide a detailed corrective action plan for such exchange or [wire center](#)~~wirecenter~~.

- (C) Eighty-five percent of directory assistance calls shall be answered within ten seconds or the average answer time shall not exceed 5.9 seconds. Benchmark for Corrective Action: If the performance is either below 85% within ten seconds or if the average answer time exceeds 5.9 seconds at any answering location in any given month, the DCTU shall provide a detailed corrective action plan for such exchange or [wire center](#)~~wirecenter~~.

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

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

(6) **Customer trouble reports.**

- (A) The DCTU that serves more than 10,000 access lines shall maintain its network service in a manner that it receives no more than three customer trouble reports on a company-wide basis, excluding customer premises equipment (CPE) reports, per 100 customer access lines per month (on average). Performance Benchmark Applicable for Corrective Action: If the customer trouble report exceeds 3.0% (three per 100 access lines) for a large exchange or 6.0% (six per 100 access lines) for a smaller exchange for three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or [wire center](#)~~wirecenter~~. For purposes of this section, a large exchange is defined as serving 10,000 or more access lines and a small exchange is defined as serving less than 10,000 access lines.

(B) - (C) (No change.)

(D) At least 90% of out-of-service trouble reports on service provided by a DCTU shall be cleared within eight working hours, except where access to the customer's premises is required but not available or where interruptions are caused by unavoidable casualties and acts of God affecting large groups of customers. Performance Benchmark Applicable for Corrective Action: If the performance is below 90% in any exchange area for a period of three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or [wire center](#)~~wirecenter~~.

(E) Each DCTU shall establish procedures to insure the prompt investigation and correction of trouble reports so that the percentage of repeated trouble reports on residence and single line business lines does not exceed 22% of the total customer trouble reports on those lines. Performance Benchmark Applicable for Corrective Action: If repeat reports exceed 22% of the total customer trouble report in any exchange for three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or [wire center](#)~~wirecenter~~.

(7) (No change.)

**§26.73. Annual Earnings Report.**

Each utility shall file with the commission, on commission-prescribed forms available on the commission's website, an earnings report providing the information required to enable the commission to properly monitor public utilities within the state. A deregulated or transitioning company is not required to file an earnings report with the commission unless the company is receiving support from the Texas High Cost Universal Service Plan.

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

**§26.89. Information Regarding Rates and Services of Nondominant Carriers.**

(a) All nondominant carriers, including those holding a certificate of operating authority or a service provider certificate of operating authority, ~~may, but are not required to~~ shall file the information set forth in paragraphs (1) - (3) of this subsection. This information shall be updated and kept current at all times.

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

(b) By June 30 of each year, each nondominant carrier that during the previous 12 months has not filed changes to the information ~~filed~~ required pursuant to subsection (a) of this section shall file with the commission a letter informing the commission that no changes have occurred. An uncertificated nondominant carrier failing to file either this letter or the updates ~~pursuant to~~ required by subsection (a) of this section during the 12-month period ending June 30 may no longer be considered to be registered with the commission.

(c) (No change.)

**§26.124. Pay-Per-Call Information Services Call Blocking.**

(a) - (d) (No change.)

(e) **Compliance.** Each DCTU that is subject to rate of return regulation under Public Utility Regulatory Act, Chapter 53~~Within 45 days of being declared a DCTU, each DCTU~~ shall file tariffs in compliance with this section. The compliance tariffs will be reviewed by staff. Within 35 days of the date of filing of the tariffs, the tariffs will either be approved or the effective date of the tariff will be suspended for further review.

**§26.128. Telephone Directories.**

- (a) (No change.)
- (b) **Telephone directory requirements for all providers.** Any private for-profit publisher and any telecommunications utility or its affiliate that publishes a residential telephone directory shall comply with the following requirements:
- (1) (No change.)
  - (2) The directory shall include the information required in paragraph (1) of this subsection from the most current edition of the State of Texas Telephone Directory prepared and issued by the [Department of Information Services](#)~~General Services Commission of the State of Texas~~ and those modifications to the State of Texas Telephone Directory that are available upon request from the [Department of Information Resources](#)~~General Services Commission of Texas~~.
  - (3) All publishers shall contact the [Department of Information Resources](#)~~General Services Commission of Texas~~ in writing to determine which issue of the State of Texas Telephone Directory is most current and to obtain the modifications referred to in paragraph (2) of this subsection. The [Department of Information Resources](#)~~General Services Commission~~ shall respond within 30 days of receiving the request.
  - (4) The listings required by paragraph (1) of this subsection:
    - (A) - (D) (No change.)
    - (E) shall be in compliance with the categorization developed by the Records Management Interagency Coordinating Council. The categorization shall

be available upon request from the [Department of Information Resources](#)~~General Services Commission~~. The listings shall be arranged in two ways:

- (i) alphabetically by subject matter of state agencies; and
- (ii) alphabetically by agency and public service name;

(F) shall include the telephone number for state government information:  
(512) 463-4630.

(c) (No change.)

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

(1) (No change.)

(2) A telecommunications utility or an affiliate of that utility that publishes and causes to be distributed to the public a residential or business telephone directory shall prominently list in the directory the following information: “The Specialized Telecommunications Assistance Program (STAP) provides financial assistance to help Texas residents with disabilities purchase basic specialized equipment or services needed to access the telephone network. For more information, contact the [Texas Department of Assistive and Rehabilitative Services, Office for Deaf and Hard of Hearing Services](#)~~Texas Commission for the Deaf and Hard of Hearing~~ at 512-407-3250 (Voice) or 512-407-3251 (TTY) or [www.dars.state.tx.us/dhhs/www.tedhh.state.tx.us](#). This program is open to all individuals who are residents of Texas and have a disability.”

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

(1) (No change.)

(2) **Distribution.** Upon issuance, a copy of each directory shall be distributed at no charge for each customer access line served by the telecommunications utility in the geographic area covered by that directory and, if requested, one extra copy per customer access line shall be provided at no charge. Notwithstanding any other law, a telecommunications provider or telecommunications utility may publish on its website a telephone directory or directory listing instead of providing for general distribution to the public of printed directories or listings. A provider or utility that publishes a telephone directory or directory listing electronically shall provide a print or digital copy of the directory or listing to a customer on request. If a provider or utility chooses to publish its telephone directory or directory listings electronically, it shall notify its customers that the first print or digital copy requested by a customer in each calendar year will be provided at no charge to the customer. A printed or digital copy of each directory shall be furnished to the commission. A telecommunications utility shall also distribute copies of directories pursuant to any agreement reached with another CTU. ~~A copy of each directory shall be furnished to the commission.~~

(3) - (6) (No change.)

(f) **References to other sections relating to directory notification.** The requirements of this section are in addition to the requirements referenced in paragraphs (1) ~~– (4)through~~ ~~(6)~~ of this subsection, or any other applicable section in this title. The applicability of each of the sections referenced in paragraphs (1) ~~– (4)through~~ ~~(6)~~ of this subsection is unaffected by the inclusion of the reference in this subsection.

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

~~(4) Section 26.122 of this title (relating to Customer Proprietary Network Information) concerning notification;~~

~~(5) Section 26.126 of this title (relating to Telephone Solicitation) concerning responsibility of LECs;~~

~~(4)(6)~~ Section 26.130 of this title (relating to Selection of Telecommunications Utilities) concerning notice of customer rights.

(g) (No change.)

§26.134. **Market Test to be Applied in Determining if Markets with Populations Less than 100,000~~30,000~~ Should Remain Regulated ~~on or After January 1, 2007~~.**

- (a) **Purpose.** The purpose of this section is to establish the market tests to be applied in determining if markets with populations less than 100,000~~30,000~~ should remain regulated ~~after January 1, 2007~~.
- (b) (No change.)
- (c) **Market Test.** Markets as defined in PURA §65.002 ~~of PURA~~ with a population of less than 100,000~~30,000~~ shall be deregulated only if the ILEC providing services to such a market submits evidence demonstrating that the population in the market is less than 100,000~~30,000~~ and in addition to the ILEC there are at least two ~~three separate~~ competitors operating in all or part of the market that:
- (1) are unaffiliated with the ILEC; and of which at least one competitor is an entity providing residential telephone service in the market using facilities that the entity or its affiliate owns; and
  - (2) provide voice communications service without regard to the delivery technology, including throughf which at least two competitors must be from two different eategories of the following:
    - (A) Internet Protocol or a successor protocola telecommunications provider that holds a certificate of operating authority or service provider certificate of operating authority and provides residential local exchange telephone service in the market;
    - (B) satellite; ora provider in that market of commercial mobile service as defined by Section 332(d), Communications Act of 1934 (47 U.S.C.

~~Section 151 et. Seq.), Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. No. 103-66), that is not affiliated with the incumbent local exchange company; and~~

- (C) a technology used by a wireless provider or a commercial mobile service provider, as that term is defined by PURA §64.201.a—satellite telecommunications provider certified as an eligible telecommunications carrier for the entire market pursuant to §26.418 of this title (relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds.)

(d) Market Test Procedures

- (1) An ILEC may petition the commission to deregulate a market of the ILEC that the commission previously determined should remain regulated.
- (2) Only the ILEC may initiate a proceeding to deregulate one of its markets. Not later than the 90<sup>th</sup> day after the date the commission receives the petition, the commission shall:
- (A) determine whether the regulated market should remain regulated; and
- (B) issue a final order classifying the market in accordance with this section.
- (3) If the commission deregulates a market that results in a regulated or transitioning company no longer meeting the definition of a regulated or transitioning company, the commission shall issue an order reclassifying the company as a transitioning company or deregulated company, as those terms are defined by PURA §65.002.

~~(e)(4)~~ **Rural Exemption Waiver.** In the event that an ILEC seeking deregulation of a market area with a population of less than ~~100,000~~~~30,000~~ has a rural exemption as provided for in ~~47 U.S.C. §Section~~ 251(f)(1) “Exemption For Certain Rural Telephone Companies” of the Communications Act of 1934, a petition for the removal of that rural exemption for that market must be approved by the commission in order for the market in question not to remain regulated. In addition, any such market must meet the conditions of the market test set forth in subsection (c) of this section.

~~(f)(e)~~ **Timing.**

~~(1)~~ ~~Markets shall be deregulated on January 1, 2007 only if the ILEC providing service to such a market(s) submits evidence on or before August 1, 2006 in compliance with subsection (e) of this section and, if applicable, subsection (d) of this section.~~

~~(1)(2)~~ After ~~September 1, 2011~~~~July 1, 2007~~ an ILEC petitioning for deregulation of a market with a population of less than ~~100,000~~~~30,000~~ shall submit with its petition the evidence in compliance with subsection (c) of this section and, if applicable, subsection ~~(e)(4)~~ of this section.

~~(2)(3)~~ A market deregulated as of September 1, 2011, shall remain deregulated.

(3) The commission may not reregulate a market or company that has been deregulated.

**§26.141. Distance Learning, Information Sharing Programs, and Interactive Multimedia Communications.**

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

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

~~(3)~~ Health center -- A federally qualified health center service delivery site.

~~(4)(3)~~ **Information sharing program** -- Instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by a library predominantly for such instruction, learning, or training, including video, data, voice, and electronic information.

~~(5)(4)~~ **Interactive multimedia communications** -- Real-time, two-way, interactive voice, video, and data communications conducted over networks that link geographically dispersed locations. This definition includes interactive communications within or between buildings on the same campus or library site.

~~(6)(5)~~ **Library** -- Public library or regional library system as defined by Government Code, §441.122, or a library operated by an institution of higher education or a school district.

(b) (No change.)

(c) **Coordination with federal discounts.**

(1) For any discount received pursuant to ~~§26.216~~~~§23.107~~ of this title (relating to Educational Percentage Discount Rates (E-Rates)), an eligible school, library or consortia may apply such discount prior to any discount received under

subsection (d) or (e) of this section. Any subsequent discount received under this section shall apply to the discounted E-Rate and not the tariffed rate.

- (2) Any discount received under ~~§26.216~~~~§23.107~~ of this title will be applied subsequent to the rate obtained for services offered pursuant to subsection (f) of this section. For purposes of determining the rate to which a discount pursuant to ~~§26.216~~~~§23.107~~ of this title will apply, the rates offered under subsection (f) of this section qualify as the lowest corresponding price.

(d) - (e) (No change.)

- (f) **Customer-specific contracts.** When a service is provided to an educational institution or library pursuant to §26.211 of this title (relating to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges), the dominant certificated telecommunications utility shall price those components of the service used predominantly for distance learning or an information sharing program ~~no less than 105%, and~~ no greater than 110%, including installation, of the customer-specific long-run incremental cost.

(g) (No change.)

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

## (a) Purpose and application.

(1) (No change.)

(2) Application. This section applies to any small ILEC as that term is defined in §26.5 of this title (relating to Definitions), except that this section does not apply to a cooperative corporation partially deregulated under PURA, Chapter 53, Subchapter H. Nothing in this section precludes a small ILEC from offering a packaged service, new service, or promotional service or proposing a change in rates under other applicable sections of the PURA. Nothing in this section prohibits the commission from conducting a review in accordance with PURA, Chapter 53, Subchapter D. Notwithstanding limitations contained within §26.121 of this title (relating to Privacy Issues), §26.121 of this title applies to notices to the commission (commission notices)~~statements of intent~~ filed under this section.

## (b) (No change.)

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

(1) ~~Notice~~**Statement of Intent.** At least ~~1091~~ calendar days before the effective date of the proposed change, the small ILEC shall file six copies of a commission notice~~statement of intent~~ with the commission's Filing Clerk and shall serve a copy upon the Office of Public Utility Counsel. Such notice shall include:

(A) a copy of the customer notice required by subsection (d) of this section;

(B) a sufficient description of how notice will be provided to the customers to allow the presiding officer to rule on the sufficiency of the notice;

(C) - (L) (No change.)

- (2) **Response to the commission notice~~statement of intent~~.** No later than ten calendar days after the small ILEC files the commission notice~~statement of intent~~, the presiding officer assigned to the project shall notify the small ILEC of any deficiencies in the commission notice~~statement of intent~~, whether the proposed notice to the customers is approved, and whether a waiver request, if any, is granted.

- (d) **Notice.** A small ILEC satisfies the notice requirements in paragraphs (1)-(5) of this subsection by completing notice to the affected customers no later than 1061 days before the proposed effective date of the tariff\_sheets. If notice is not completed as required, the proposed effective date shall be postponed for as many days as completion of notice is delayed. ~~Newspaper notice required in paragraphs (1) and (2) of this subsection shall be provided in a newspaper of general circulation in the particular area(s) affected by the proposed change if a newspaper with general circulation in the entire county does not exist.~~

- (1) **Extended local calling service, packaged service, promotional service or new service.** For extended local calling service, a packaged service, promotional service or a new service, notice shall be provided to each affected customer~~or for a new service, either two weeks published notice in a newspaper of general circulation in each county affected by the statement of intent or direct mail notice to each affected customer shall be required or, in the case of a~~

~~cooperative, publication of notice in the cooperative's newsletter and direct mail notice to affected nonmember customers shall be required.~~

~~(2) **Rate increases.** For a rate increase, notice shall be published for four weeks in a newspaper of general circulation in each county affected by the rate increase and direct mail notice shall be provided to each affected customer.~~

~~(2)(3) **Good cause exceptions.** The presiding officer may require for good cause that notice be provided in addition to notice proposed by the small ILEC for a proposed new service or may waive for good cause the ~~publication of~~ notice requirement prescribed by this section ~~for a proposed new service~~.~~

~~(3)(4) **Contents of notice.** Each notice must include:~~

- ~~(A) a description of the service(s) affected by the proposed change;~~
- ~~(B) a list of rates affected by the commission notice~~statement of intent~~ and how the rates affect each category of affected customers;~~
- ~~(C) - (F) (No change.)~~

~~(4)(5) **Proof of customer notice.** Within seven calendar days following completion of notice, the small ILEC or a representative of the small ILEC shall file one or more affidavits establishing proof of notice to customers as required by this subsection~~direct mail notice and published notice required by this subsection~~ and shall file a copy of each published notice.~~

~~(6) **Texas Register notice.** Following approval of the notice by the presiding officer, the commission shall submit notice of the small ILEC's filing of the statement of intent to the Texas Register for publication.~~

(e) **New service availability.** If the commission notice~~statement of intent~~ concerns a

new service, as defined in §26.5 of this title, that will not be offered ~~system-wide~~~~systemwide~~, the small ILEC shall explain separately for each telephone exchange why the new service cannot be offered ~~system-wide~~~~systemwide~~.

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

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

(g) **Review.**

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

(2) **Suspension of tariff.** The ~~effective date of a~~ proposed tariff may be suspended up to 150 calendar days to provide the commission an opportunity to review the ~~commission notice~~. Additionally the presiding officer shall suspend the tariff if within 30 calendar days following the completion of the customer notice~~statement of intent~~. Additionally, within 35 calendar days of the filing of the proof of completion of notice, the presiding officer shall suspend the effective date if within 30 calendar days following completion of notice:

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

(h) **Docketing.** Following suspension of the effective date of the proposed tariff, the presiding officer shall provide a small ILEC a reasonable opportunity to modify its ~~commission notice~~~~statement of intent~~ to address conditions that exist, if any, under subsection (g)(2) of this section. If conditions under subsection (g)(2) of this section are

not resolved during the suspension period, the presiding officer may docket the project.

If the project is docketed, the effective date of the proposed tariff shall be automatically

suspended and the commission shall review the commission notice~~statement of intent~~ in

accordance with the commission's procedural rules applicable to docketed cases.

**§26.205. Rates for Intrastate Access Services.**

- (a) (No change.)
- (b) **Access services.** Each DCTU's tariff must include the recurring and nonrecurring charges for all access services offered by the DCTU. A DCTU may cross-reference its federal tariff in its state tariff if its intrastate switched access rates are the same as its interstate switched access rates. A DCTU is not required to include in its access tariff any access service that its network is technologically incapable of providing. A DCTU must include in its access tariff any access service which is provided on a special assembly basis if the service is provided to more than three customers or if the service is provided at more than three locations. DCTUs are prohibited from charging intrastate end user common line charges, intrastate subscriber line charges, or similar intrastate end user charges.
- (c) **Access rates.** The structure and rates for all DCTUs' intrastate switched access services shall be established in accordance with the following requirements.
- (1) - (3) (No change.)
- (4) **Local transport rate structure and pricing.** Local transport rates shall not contain unreasonable distance sensitivity. Each DCTU shall comply with subparagraphs (A)-(I) of this paragraph, unless indicated otherwise.
- (A) - (H) (No change.)
- (I) Tariff provisions.
- (i) Tariffs shall not contain resale or sharing restrictions for switched transport services.
- (ii) Initial tariffs filed in compliance with this section ~~may~~ shall be

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filed pursuant to ~~§ 26.209~~~~§ 23.26~~ of this title (relating to New and Experimental Services). ~~Tariff revisions filed pursuant to this subparagraph shall not be combined in a single application with any other tariff revision.~~ Initial tariff amendments shall not be permitted to become effective before expanded interconnection for switched transport services becomes available from the DCTU for those DCTUs subject to substantive rule ~~§ 26.271~~~~§ 23.92~~ of this title (relating to Expanded Interconnection).

- (iii) DCTUs not subject to substantive rule ~~§ 26.215~~~~§ 23.91~~ of this title (relating to Long Run Incremental Cost Methodology for Dominant Certificated Telecommunications Utility (DCTU) Services) may propose charges that are the same as the charges in effect for the carrier's interstate provision of the same service or adopt the switched transport rates of another DCTU that are developed pursuant to the requirements of this section.
- (iv) Within 120 days after the completion of LRIC cost studies required by substantive rule ~~§ 26.215~~~~§ 23.91~~ of this title, any DCTU subject to that rule shall file tariff amendments in order to revise its local transport rates in conformity with this section based upon the new LRIC cost studies.

(5) - (6) (No change.)

(d) (No change.)

**§26.208. General Tariff Procedures.**

(a) - (d) (No change.)

(e) **Administrative review.** An application filed pursuant to §§26.207 of this title (relating to Form and Filing of Tariffs), 26.209 of this title (relating to New and Experimental Services), 26.210 of this title (relating to Promotional Rates for Local Exchange Company Services), or 26.211 of this title (relating to Rate Setting Flexibility for Services Subject to Significant Competitive Challenges), ~~or 26.212 of this title (relating to Procedures Applicable to Chapter 58 Electing Incumbent Local Exchange Companies)~~ shall be reviewed administratively unless the presiding officer, for good cause, determines at any point during the review that the application should be docketed. The operation of the proposed rate schedule may be suspended for 35 days after the effective date of the application. The effective date shall be no earlier than 30 days after the filing date of the application or 30 days after public notice is completed, whichever is later. The application shall be examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant 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 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 shall be determined from the 30th day after the filing of the sufficient application and information or from the effective date if the presiding officer extends that date. While the application is being administratively reviewed, the commission staff and the staff of the Office of Public Utility Counsel may submit requests for information to the DCTU. Three copies of all answers to such

requests for information shall be provided to the commission staff and the Office of Public Utility Counsel within ten days after receipt of the request by the DCTU. No later than 20 days after the filing date of the application, interested persons may provide to the commission staff written comments or recommendations concerning the application. The commission staff shall and the Office of Public Utility Counsel may file with the presiding officer written comments or recommendations concerning the application. No later than 35 days after the effective date of the application, the presiding officer shall complete an administrative review to determine whether the DCTU's application meets the following requirements:

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

(f) - (h) (No change.)

(i) A DCTU that is not subject to rate-of-return regulation under Public Utility Regulatory Act, Chapter 53:

(1) may, but is not required to maintain on file with the commission tariffs, price lists, or customer service agreements governing the terms of providing service;

(2) may cross-reference its federal tariff in its state tariff if its intrastate switched access rates are the same as its interstate switched access rate;

(3) may withdraw a tariff, price list, or customer service agreement not required to be filed or maintained with the commission under this section if it:

(A) files written notice of the withdrawal with the commission; and

(B) notifies its customers of the withdrawal and posts the current tariffs, price lists, or generic customer service agreements on its Internet website.

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

(a) (No change.)

(b) **Purpose.** The purpose of this section is to establish procedures for pricing flexibility for services subject to competition and a process for the review of pricing flexibility applications ~~and customer specific contracts.~~

(c) **Pricing flexibility.**

(1) The types of pricing flexibility that an incumbent local exchange company (ILEC) may request are set forth in subparagraphs (A)-(C)(D) of this paragraph.

(A) (No change.)

~~(B) Customer specific contracts. If an ILEC is granted the authority to enter into customer specific contracts, the contract shall be filed and approved pursuant to subsection (d) of this section. Customer specific contracts filed pursuant to subsection (d) of this section may include services in addition to the service for which the ILEC has been granted authority to price on a flexible basis only if each such adjunct service is clearly specified in the contract and provided pursuant to a tariff approved by the commission.~~

~~(B)(C)~~ Detariffing. If an ILEC is granted the authority to detariff a service, the ILEC shall maintain at the commission a current price list for the service, and the commission shall retain authority to regulate the quality, terms and conditions of the detariffed service, other than rates. The commission may

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determine the appropriate ratemaking treatment of any revenues from or costs of providing a detariffed service in a proceeding under the Public Utility Regulatory Act, Chapter 53, Subchapters C and D, or G.

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

(2) (No change.)

(3) An application for pricing flexibility filed under this paragraph shall:

(A) (No change.)

(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 pursuant to paragraph (1)~~(C)(D)~~ of this subsection that involves rate-setting;

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

(C)-(O) (No change.)

(4)-(6) (No change.)

(7) An application for pricing flexibility shall be approved if, after an evidentiary hearing, the commission finds, based on the evidence, that:

(A) (No change.)

(B) no service for which the ILEC requests detariffing of rates ~~or authority to enter into customer-specific contracts~~ is message telecommunications

service, switched access service, or wide area telecommunications service

(C) - (E) (No change.)

(8) (No change.)

(d) **Customer-specific contracts.**

~~(1)~~—An ILEC shall have the authority to enter into customer-specific contracts for:

~~(1)(A)~~ central office based PBX-type services for systems of 200 stations or more, as those services compete with customer premises equipment provided by PBX vendors;

~~(2)(B)~~ billing and collection services;

~~(3)(C)~~ high-speed private line services of 1.544 megabits or greater;

~~(4)(D)~~ customized services that are unique because of size or configuration, provided that such customized services 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)(E)~~ any other service for which the commission has authorized the ILEC to enter into customer-specific contracts pursuant to this section.

~~(2) An ILEC will file quarterly reports to the commission, and at the same time, serve a copy of those reports on the Office of Public Utility Counsel. The reports will provide the following information regarding all customer-specific contracts for services pursuant to paragraph (1)(A) - (E) of this subsection:~~

~~(A) customer name, location and contact;~~

~~(B) type of services, exchange location and quantities;~~

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- ~~(C) terms and rates for services;~~
- ~~(D) affidavit of the customer attesting to the fact that the customer was aware of the possibility of purchasing of such services from other providers; and~~
- ~~(E) affidavit of the ILEC attesting that the rates:
  - ~~(i) are set at 105% or more of the long-run incremental costs of the services;~~
  - ~~(ii) are not unreasonably preferential, prejudicial or discriminatory;~~
  - ~~(iii) are such that the contracted services will not be subsidized directly or indirectly by regulated monopoly services; and~~
  - ~~(iv) are not predatory or anticompetitive.~~~~

(e) - (f) (No change.)

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

- (a) **Purpose.** This section establishes procedures for processing requests for extended area service (EAS) pursuant to the Public Utility Regulatory Act (PURA), Chapter 55, Subchapter B. On or after September 1, 2011, the commission may not require a telecommunications provider to provide mandatory or optional extended area service to additional metropolitan areas or calling areas.
  
- (b) (No change.)

**§26.219. Administration of Expanded Local Calling Service Requests.**

- (a) **Purpose.** The purpose of this section is to describe the process used to administer requests from telephone service subscribers for two-way toll-free expanded local calling service (ELCS) pursuant to the Public Utility Regulatory Act (PURA), Chapter 55, Subchapter C. Only incumbent local exchange companies (ILECs) are subject to the provisions of PURA, Chapter 55, Subchapter C. On or after September 1, 2011, the commission may not require a telecommunications provider to provide mandatory or optional extended area service to additional metropolitan areas or calling areas.
- (b) (No change.)
- (c) **ELCS requests, notice and intervention.**
- (1) - (2) (No change.)
- (3) **Notice to affected ILECs.** Within five working days of receipt by the ~~commission~~Office of Regulatory Affairs of a filed request for ELCS, the ~~commission~~Office of Regulatory Affairs shall send a copy of the request by certified mail to each ILEC serving either a petitioning or a petitioned telephone exchange.
- (4) - (5) (No change.)
- (d) - (e) (No change.)

(f) **Balloting.** If all applicable requirements contained in subsections (c) and (d) of this section are met and no exemption requests are outstanding, the presiding officer shall issue an order directing the ILEC serving the petitioning exchange to begin balloting subscribers in that exchange, and the presiding officer shall notify the designated contact person for the petitioning exchange that balloting will take place.

(1) (No change.)

(2) **Ballot format.** No later than 30 days after the presiding officer's order directing the ILEC serving the petitioning exchange to begin balloting, that ILEC shall distribute a ballot, written in English and Spanish, to each subscriber in the petitioning exchange. The ballot shall require a separate vote from each subscriber for each petitioned exchange. The ballot must be in a standard form approved by the ~~commission~~Office of Regulatory Affairs and each ballot shall include:

(A) - (I) (No change.)

(3) **Master list of subscribers.** No later than 35 days after the presiding officer's order to the ILEC serving the petitioning exchange to begin balloting, that ILEC shall submit to the ~~commission~~Office of Regulatory Affairs a master list of all subscribers within the petitioning exchange in an electronic spreadsheet format prescribed by the ~~commission~~Office of Regulatory Affairs. The ILEC shall classify the master list as confidential, and the list shall be treated as such under the provisions of the Government Code, Title 5, Chapter 552. The master list shall be arranged sequentially by billing number and shall include for each subscriber in the petitioning exchange:

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

- (4) **Response to balloting.** The ~~commission~~Office of Regulatory Affairs shall, no later than 15 days after the date stated on the ballot for return of the ballot, notify the presiding officer, the contact person, and affected ILEC(s) of the results of the ballot by filing a ballot report. The ballot report shall specify the results of the ballot for each petitioned exchange.

(A) Affirmative vote.

- (i) If at least 70% of petitioning subscribers responding vote affirmatively as to any petitioned exchange, the ILEC serving the petitioning exchange shall file with the commission, within 30 days after the filing of the ~~commission's~~Office of Regulatory Affairs' ballot report, an application to establish ELCS fees pursuant to PURA §55.048(b). The ILEC's application shall include the ILEC's proposed implementation schedule and proposed schedule of fees as well as other information described in §26.221(e)(1)-(9) of this title (relating to Applications to Establish or Increase Expanded Local Calling Service Surcharges).

(ii) - (iv) (No change.)

- (B) Negative vote. If less than 70% of those responding vote in favor of ELCS to a petitioned exchange, the presiding officer shall, within 10 days after the filing of the ~~commission's~~Office of Regulatory Affairs' ballot report, deny the request for ELCS to that specific petitioned exchange.

(g) (No change.)

(h) **Docketing.** Within 30 days of the issuance of an order under subsection (f)(4)(A)(iii) of this section granting interim approval of fees to be billed by the ILEC serving the petitioning exchange, any intervenor or the ~~commission~~Office of Regulatory Affairs may request that the presiding officer docket the project. Docketing may be requested in order to allow further investigation of the ILEC's application or, for good cause shown, any other reason. Upon receipt of a request for docketing, the presiding officer shall docket the project and shall establish a procedural schedule. Upon docketing, discovery may commence in accordance with the commission's Procedural Rules, Chapter 22, Subchapter H of this title (relating to Discovery Procedures).

(i) (No change.)

**§26.226. Requirements Applicable to Pricing Flexibility for Chapter 58 Electing Companies.**

(a) - (d) (No change.)

(e) **Requirements for customer-specific contracts.** Consistent with PURA §58.003, an electing ILEC may enter into customer-specific contracts for certain basic network services and certain nonbasic services as provided in this subsection. An electing ILEC may but is not required to file customer-specific contracts with the commission. ~~Additionally, for services listed in PURA §52.057(a), an electing ILEC may enter into customer specific contracts pursuant to §26.211 of this title only if such customer specific contracts are not inconsistent with the requirements of PURA, Chapter 58.~~

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

**§26.227. Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies.**

- (a) (No change.)
- (b) **Purpose.** The purpose of this section is to establish procedures for an electing company [that chooses to provide an informational notice](#) to introduce nonbasic services, including new services, and/or to exercise pricing flexibility for basic and nonbasic services, and for complaints regarding service offerings introduced through informational notice filings.
- (c) - (f) (No change.)
- (g) [A telecommunications provider that is not subject to rate-of-return regulation under PURA, Chapter 53:](#)
- (1) [may, but is not required to, maintain on file with the commission tariffs, price lists, or customer service agreements in relation to services that are not subject to regulation without commission approval;](#)
  - (2) [may make changes in its tariffs, price lists, and customer service agreements in relation to services that are not subject to regulation without commission approval; and](#)
  - (3) [may cross-reference its federal tariff in its state tariff if its intrastate switched access rates are the same as its interstate switched access rates.](#)

(h) A telecommunications provider may withdraw a tariff, price list, or customer service agreement not required to be filed or maintained with the commission under this section if the provider:

- (1) files written notice of the withdrawal with the commission; and
- (2) notifies its customers of the withdrawal and posts the current tariffs, price lists, or generic customer service agreements on its Internet website.

**§26.229. Requirements Applicable to Chapter 59 Electing Companies.**

- (a) (No change.)
- (b) **Purpose.** The purpose of this section is to establish the substantive and procedural requirements for an electing company [that chooses to provide an informational notice](#) to introduce new services and/or to exercise pricing and packaging flexibility, including customer promotional offerings, and for complaints regarding service offerings introduced by informational notice offerings.
- (c) - (g) (No change.)
- (h) [A telecommunications provider that is not subject to rate-of-return regulation under PURA, Chapter 53:](#)
- (1) [may, but is not required to, maintain on file with the commission tariffs, price lists, or customer service agreements in relation to services that are not subject to regulation without commission approval;](#)
  - (2) [may make changes in its tariffs, price lists, and customer service agreements in relation to services that are not subject to regulation without commission approval; and](#)
  - (3) [may cross-reference its federal tariff in its state tariff if its intrastate switched access rates are the same as its interstate switched access rates.](#)

- (i) A telecommunications provider may withdraw a tariff, price list, or customer service agreement not required to be filed or maintained with the commission under this section if the provider:
- (1) files written notice of the withdrawal with the commission; and
  - (2) notifies its customers of the withdrawal and posts the current tariffs, price lists, or generic customer service agreements on its Internet website.

**§26.230. Requirements Applicable to Chapter 65 One-day Informational Notice Filings.**

- (a) (No change.)
- (b) **Purpose.** The purpose of this section is to establish the requirements for a transitioning ILEC [that chooses to provide an informational notice](#) to introduce new services, and/or to exercise pricing flexibility for basic and non-basic retail telecommunications services, and to outline the procedures for processing complaints regarding service offerings introduced by such informational notice filings.
- (c) **Pricing standards.**
- (1) (No change.)
- (2) In a deregulated market, the transitioning ILEC shall price its retail services as follows:
- (A) for all services, other than ~~residential basic local telecommunications~~ service, at a price [equal to or](#) higher than the service's long run incremental costs (LRIC); and
- (B) for ~~non-residential basic local telecommunications~~ service, at any price [equal to or](#) higher than the lesser of the service's LRIC or the tariffed price on the date the market was deregulated, ~~provided that the company does not increase rates for stand-alone residential local exchange voice service as defined in PURA §65.002(4) before the date that the commission revises, or declines to revise, monthly per line support under the Texas High-Cost Universal Service Plan pursuant to PURA §56.031, regardless of whether the company is an electing company under PURA Chapter 58.~~

- (3) Notwithstanding any other long-run incremental cost filing requirements in this subchapter, a transitioning company, upon written notice to the commission, is not required to file with the commission a long-run incremental cost study for any service. ~~In each deregulated market, a transitioning company shall make available to all residential customers throughout that market the same price, terms, and conditions for all basic and non-basic retail telecommunications services, consistent with any pricing flexibility available to the company on or before August 31, 2005.~~
- (4) Notwithstanding paragraphs (2) and (3) of this subsection, a transitioning company may not: ~~In any market, regulated or deregulated, the transitioning ILEC may not:~~
- (A) - (B) (No change.)
- (C) engage in predatory pricing or attempt to engage in predatory pricing. A rate or price for a basic local telecommunications service is not anticompetitive, predatory, or unreasonably preferential, prejudicial, or discriminatory if the rate or price is equal to or greater than the rate or price in the transitioning company's tariff, or price list, for that service in effect on the date the transitioning company submits notice to the commission under paragraph (3) of this subsection.
- (5) In each deregulated market, a transitioning company shall make available to all residential customers throughout that market the same price, terms, and conditions for all basic and non-basic retail telecommunications services, consistent with any pricing flexibility available to the company on or before August 31, 2005.

~~(6)(5)~~ A rate that meets the pricing requirements of paragraph (2) of this subsection is deemed compliant with paragraph (4)(B) of this subsection.

(7) A deregulated or transitioning company may offer to an individual residential customer a promotional offer that is not available uniformly throughout the market if the company makes the offer through a medium other than direct mail or mass electronic media and the offer is intended to retain or obtain a customer.

(d) **Procedures related to the filing of one-day informational notices and associated tariffs.** The provisions of this subsection apply to ILECs choosing to introduce new services and/or exercise pricing and packaging flexibility through one-day informational notice filings.

(1) (No change.)

(2) **Filing requirements.**

(A) (No change.)

(B) **Format of filing.** An informational notice under this section must include the same elements as set forth in §26.227(c)(2)(D) of this title (relating to Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies) and the following:

(i) (No change.)

(ii) For retail services offered in deregulated markets, the transitioning company must demonstrate that the rates, terms, and conditions comply ~~with the requirements of subsection (e)(2) of this section and affirm that the said rates, terms and conditions comply with~~

requirements in subsections(c)(2), and (4)-(7)~~subsection (e)(3)-(4)~~  
of this section.

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

(e) (No change.)

(f) **Complaints.**

(1) An affected person may file a complaint at the commission challenging whether a transitioning company is complying with subsection (c) of this section.

(2) Notwithstanding subsection (c)(3) of this section, the commission may require a transitioning company to submit a long-run incremental cost study for a business service that is the subject of a complaint submitted under paragraph (1) of this subsection~~Complaints filed by an affected person, OPC or commission staff regarding service offerings introduced by one day informational notice filings shall be subject to the provisions of §26.227(e) of this title.~~

(g) A telecommunications provider that is not subject to rate-of-return regulation under PURA, Chapter 53:

(1) may, but is not required to, maintain on file with the commission tariffs, price lists, or customer service agreements in relation to services that are not subject to regulation without commission approval;

(2) may make changes in its tariffs, price lists, and customer service agreements in relation to services that are not subject to regulation without commission approval; and

(3) may cross-reference its federal tariff in its state tariff if the provider's intrastate switched access rates are the same as the provider's interstate switched access rates.

(h) A telecommunications provider may withdraw a tariff, price list, or customer service agreement not required to be filed or maintained with the commission under this section if the provider:

(1) files written notice of the withdrawal with the commission; and

(2) notifies its customers of the withdrawal and posts the current tariffs, price lists, or generic customer service agreements on its Internet website.

**§26.401. Texas Universal Service Fund (TUSF).**

- (a) **Purpose.** The purpose of the Texas Universal Service Fund (TUSF) is to implement a competitively neutral mechanism that enables all residents of the state to obtain the basic telecommunications services needed to communicate with other residents, businesses, and governmental entities. Because targeted financial support may be needed in order to provide and price basic telecommunications services in a manner to allow accessibility by consumers, the TUSF will assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas. In addition, the TUSF will reimburse qualifying entities for revenues lost as a result of providing Lifeline services to qualifying low-income consumers under the Public Utility Regulatory Act (PURA); reimburse telecommunications carriers providing statewide telecommunications relay access service and qualified vendors providing specialized telecommunications devices and services for the disabled; and reimburse the Texas [Health and Human Services Commission](#)~~Department of Human Services~~, the Texas Department of Housing and Community Affairs, [Texas Department of Assistive and Rehabilitative Services](#), [the Office for Deaf and Hard of Hearing Services](#)~~the Texas Department for the Deaf and Hard of Hearing~~, the TUSF administrator, and the Public Utility Commission for costs incurred in implementing the provisions of PURA Chapter 56 (relating to Telecommunications Assistance and Universal Service Fund).

- (b) **Programs included in the TUSF.**

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

- (6) Section 26.412 of this title (relating to Lifeline Service ~~Program and Link-Up Service Programs~~);
- (7) - (14) (No change.)
- (15) Section 26.424 of this title (relating to Audio Newspaper Assistance Program).

(c) Support available to deregulated markets.

- (1) An incumbent local exchange company may not receive support from the universal service fund for a deregulated market that has a population of at least 30,000.
- (2) An incumbent local exchange company may receive support from the universal service fund for a deregulated market that has a population of less than 30,000 only if the company demonstrates to the commission that the company needs the support to provide basic local telecommunications service at reasonable rates in the affected market. A company may use evidence from outside the affected market to make the demonstration.
- (3) An incumbent local exchange company may make the demonstration described by paragraph (2) of this subsection in relation to a market before submitting a petition to deregulate the market.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 9<sup>th</sup> DAY OF DECEMBER 2011 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**