

The Public Utility Commission of Texas (commission) adopts an amendment to §26.107 relating to Registration of Interexchange Carriers, Prepaid Calling Services Companies, and Other Nondominant Telecommunications Carriers with changes to the proposed text as published in the April 28, 2000 *Texas Register* (25 TexReg 3679). The amendment implements the provisions of the Public Utility Regulatory Act (PURA) §§17.051-17.053 and §§64.051-64.053 (Vernon 1998, Supplement 2000) that direct the commission to adopt registration requirements for all telecommunications utilities that are not dominant carriers, allow the commission to require registration as a condition of doing business in the state of Texas, establish customer service and protection rules, suspend or revoke certificates or registrations for repeated violations of PURA or commission rules, and require telecommunications service providers to submit reports concerning any matter over which the commission has authority. This amendment was adopted under Project Number 21456.

A public hearing on the amendment was held at commission offices on May 31, 2000 at 9:00 a.m. Representatives from CLEC Coalition, AT&T Communications of Texas (AT&T), Southwestern Bell Telephone (SWBT), AT&T Wireless Services, and Texas Coalition of Cities For Utility Issues (TCCFUI) attended the hearing and provided comments. To the extent that these comments differ from the submitted written comments, such comments are summarized herein.

The commission received comments on the proposed amendment from the Association of Communications Enterprises (ASCENT), Houston Cellular Telephone Company, GTE Communications Corporation (GTE), and AT&T Wireless Services, Inc.

General Comments

Section 26.107 applies to the registration of persons and entities who provide intralata and interlata long distance telecommunications services, prepaid calling services companies, pay telephone service providers, and other telecommunications services that do not require certification as established in the Public Utility Regulatory Act, Chapter 54, Subchapter C. AT&T stated that the rule should not apply to commercial mobile radio service (CMRS) providers as stated in PURA §51.002(10). Houston Cellular wanted wireless and CMRS providers exempted from substantive rule §26.107. Houston Cellular also stated that they wanted PURA §51.002(10) added to the rule for clarification purposes.

The commission agrees with AT&T and Houston Cellular. PURA §51.002(10)(A)(iv) states that CMRS is a "Telecommunications Provider", but the law specifically exempts these entities from regulatory entities for the purpose of Chapters 17 (Customer Protection), 55 (Regulation of Telecommunications Services) or 64 (Customer Protection). The commission agrees that a reference to PURA §51.002(10) should be added to the rule.

ASCENT requested that §26.107 be limited to applying to nondominant applicants who are unaffiliated with incumbents to prevent new incumbent affiliates from escaping appropriate regulatory scrutiny.

The commission feels that PURA does not discriminate against incumbent local exchange carrier (ILEC) affiliates. PURA §54.102 and Chapter 58 discuss limitations between ILECs and their affiliates. The commission has worded this rule to identify inappropriate affiliate relationships.

Section 26.107(c)

GTE believed that requiring information about affiliates was burdensome and not related to the legislative policy of fostering competition in the telecommunications industry. GTE believed that subsection (c)(6) of the proposed rule should be deleted. GTE believed that as an alternative, the information requested should be limited to the legal name of the affiliates that were public utilities or that provided telecommunications services in Texas and a brief description of those affiliates.

The commission continues to suggest that a company provide an organizational chart of "ALL" affiliated public utilities or telecommunications providers (and the state in which they provide service). The commission has also restricted its request for detailed description and relationships to affiliates in Texas.

Section 26.107(d)

GTE stated that the automatic deregistration of an uncertificated nondominant carrier for failure to file an updated registration form by June 30 each year was too harsh. GTE suggested that a notice be sent to the telecommunications provider stating that they have failed to file the required report.

The commission agrees that a notice should be sent to the nondominant carrier stating that if the carrier has not responded within ten working days, a hearing may be convened to deregister the carrier.

AT&T requested the letter filing option that was removed from §26.107(d), be reinstated.

The commission agrees with AT&T's request.

Section 26.107(f)(2)

GTE stated that it believed that due process was being denied to carriers that were subjected to revocation or suspension for repeatedly violating PURA or the commission rules as worded in subsection (f)(2).

The commission feels that GTE is making an assumption that is not consistent with commission practice. The wording in §26.107(f)(2) does not imply that a carrier/registrant will be denied due process, nor does it imply that the commission will not follow the current practice of a notice and hearing for contested dockets.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2000) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically §15.023 that grants the commission authority to impose an administrative penalty against an entity for violation of a rule adopted under PURA; §17.004 that grants the commission authority to adopt and enforce rules as necessary or appropriate to establish customer protection standards; §17.051 and §64.051 which directs the commission to adopt registration requirements for all telecommunications utilities that are not dominant carriers; §17.052 and §64.052 which allow the commission to require registration as a condition of doing business in Texas, establish customer service and protection rules, and suspend or revoke certificates or registrations for repeated violations of this chapter or commission rules; and §17.053 and §64.053 which allow the commission to require a telecommunications service provider to submit reports to the commission concerning any matter over which it has authority under this chapter.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 15.023, 17.004, 17.051, 17.052, 17.053, 54.008, 64.051, 64.052, and 64.053.

**§26.107. Registration of Interexchange Carriers, Prepaid Calling Services
Companies, and Other Nondominant Telecommunications Carriers.**

- (a) **Application.** This section applies to the registration of persons and entities who provide intralata and interlata long distance telecommunications services, prepaid calling services companies pursuant to §26.34 of this title (relating to Telephone Prepaid Calling Services), pay telephone service providers pursuant to §26.102 of this title (relating to Registration of Pay Telephone Service Providers), and other telecommunications services that do not require certification as established in the Public Utility Regulatory Act (PURA), Chapter 54, Subchapter C; except as noted in PURA §51.002(10) (relating to Definitions).
- (b) **Purpose.** Through this section, the commission strives to identify, monitor, and protect the public interest against telecommunications entities providing uncertificated telecommunications services. The commission's overall goal is to encourage the development of a competitive marketplace for nondominant telecommunications services, free of unreasonable barriers to entry, that will provide consumers with the best services at the lowest cost.
- (c) Each nondominant carrier not holding a certificate of operating authority (COA) or service provider certificate of operating authority (SPCOA) shall file with the commission the

information set forth in paragraphs (1)-(10) of this subsection within 30 days of commencing service in Texas. Each registered nondominant carrier shall keep this information updated and current at all times.

- (1) Legal name and all assumed names under which the registrant conducts business.

A registrant shall use only one name in which to provide telecommunications services to the public per registration;
- (2) Address of the principal office and business office;
- (3) Principal office and business office telephone number, fax number, website address, E-mail address, and toll-free customer service telephone number. (If the registrant has not obtained a toll-free customer service telephone number at the time of the registration, the registrant must commit to obtaining one before commencing business);
- (4) Date service commences/commenced in Texas;
- (5) Form of business (*e.g.*, corporation, partnership, sole proprietorship), state in which business was formed, certification/authorization number, and date business was formed;
- (6) Provide an organizational chart of the legal name of all affiliated companies that are public utilities or that are providing telecommunications services and the states in which they are providing service. Give a description of all affiliates and explain in detail the relationship between the registrant and its affiliates that operate in Texas.;

- (7) FCC Carrier Identification Code (CIC) or National Exchange Carriers Association (NECA) Operating Carrier Numbers (OCNs), if available;
 - (8) Name, addresses, phone numbers, and e-mail/website address, and office location of each director, officer, or partner (if applicable);
 - (9) Names, addresses, phone numbers, and e-mail/website address of the five largest shareholders (if applicable); and
 - (10) Name, address, telephone number, and e-mail/website address of authorized/registered agent who can be contacted by the commission.
- (d) By June 30 of each year, each nondominant carrier shall file with the commission an updated registration form or a letter informing the commission that no changes have occurred. An uncertificated nondominant carrier failing to file an updated registration form by June 30 may no longer be considered to be registered with the commission. A letter of notice will be sent requiring reporting compliance within ten working days or a hearing may be set to consider de-registration of the nondominant carrier.
- (e) All nondominant carriers shall comply with the reporting requirements in §26.89 of this title (relating to Information Regarding Rates and Services of Nondominant Carriers).

(f) **Compliance enforcement.**

- (1) **Administrative penalties.** If the commission finds that a registrant has violated any provision of this section, the commission shall order the registrant to take corrective action, as necessary, and the registrant may be subject to administrative penalties and other enforcement actions pursuant to PURA, Chapter 15.
- (2) **Revocation or suspension.** If the commission finds that a registrant is repeatedly in violation of PURA or commission rules, the commission may suspend or revoke a registration pursuant to PURA Chapter 17.
- (3) **Enforcement.** The commission shall coordinate its enforcement efforts of fraudulent, misleading, deceptive, and anticompetitive business practices with the Office of the Attorney General in order to ensure consistent treatment of specific alleged violations.

This agency hereby certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §26.107 relating to Registration of Interexchange Carriers, Prepaid Calling Services Companies, and Other Nondominant Telecommunications Carriers is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 7th DAY OF JULY 2000.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Pat Wood, III

Commissioner Judy Walsh

Commissioner Brett A. Perlman