

PROJECT NO. 35495

RULEMAKING TO AMEND P.U.C.	§	PUBLIC UTILITY COMMISSION
SUBSTANTIVE RULE §26.127	§	
REGARDING 811 ABBREVIATED	§	OF TEXAS
DIALING CODE	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §26.127
AS APPROVED AT THE APRIL 1, 2010 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §26.127, relating to Abbreviated Dialing Codes. The amendment will address the responsibility of the Texas Underground Facility Notification Corporation and limitations of liability by telecommunications providers whose 811 service is regulated by the commission. Project Number 35495 is assigned to this proceeding.

Janis Ervin, Senior Utility Analyst, Infrastructure and Reliability Division, has determined that for each year of the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Ms. Ervin has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be the clarification of the responsibility of the Texas Underground Facility Notification Corporation with respect to 811 service and appropriate limitations of liability by telecommunications providers whose 811 service is regulated by the commission. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this amendment. Therefore, no

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

Ms. Ervin has also determined that for each year of the first five years the proposed amendment is in effect there should be no effect on a 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 Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Tuesday, May 25, 2010, at 10:00 a.m. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Sixteen copies of comments on the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Initial comments may be submitted by May 17, 2010, (31 days after publication) and reply comments may be submitted by May 31 (45 days after publication). Comments should be organized in a manner consistent with the organization of the amended rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the amendment. The commission will

consider the costs and benefits in deciding whether to adopt the amendment. All comments should refer to Project Number 35495.

The amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2009) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and PURA §§51.001-65.252, which grants the commission jurisdiction over telecommunications providers.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §§51.001-65.252.

§26.127. Abbreviated Dialing Codes.

(a) - (e) (No change.)

(f) **811 service.**

(1) (No change.)

(2) **Authority.** Authority for One Call Excavation Notification resides with the Texas Underground Facility Notification Corporation (doing business as One Call Board of Texas and referred to herein as TUFNG) pursuant to Chapter~~Section~~ 251 of the Texas Utilities Code.

(3) Customer Responsibility. TUFNG is a customer of 811 service. Telecommunications providers whose 811 service is regulated by the commission may require TUFNG to provide 60-days written notice for any call center number additions or changes to ensure timely numbered translations by the 811 service providers.

(4) Limitations of liability. Telecommunications providers whose 811 service is regulated by the commission may limit their liability for the provision of 811 service through the inclusion of liability limitations in their tariffs. Liability for gross negligence or willful misconduct shall not be limited.

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 1st DAY OF APRIL 2010 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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