

## CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

### Subchapter J. COSTS, RATES AND TARIFFS.

#### §26.213. Telecommunications Pricing.

- (a) **Purpose.** The purpose of this section is to establish principles to foster economic efficiency and the public welfare in the pricing of telecommunications services.
- (b) **Application.** Except as otherwise provided herein, the provisions of this section shall apply to dominant certificated telecommunications utilities (DCTUs). Unless the DCTU has elected to be regulated under the terms of the Public Utility Regulatory Act (PURA) Chapter 58, the provisions of this section may be applied to a DCTU serving 31,000 or more but fewer than one million access lines only on a bona fide request by a holder of a certificate of operating authority or service provider certificate of operating authority.
- (c) **Definition.** As used in this section, a "service" is a tariffed or contract offering which a customer may purchase to the exclusion of other offerings. For example: the various mileage bands for standard toll services are rate elements, not services; individual optional calling plans that can be purchased individually and which are offered as alternatives to each other are services, not rate elements.
- (d) **General principles.**
  - (1) **Subsidy-free pricing.**
    - (A) Telecommunications prices should be subsidy-free. Subsidy-free prices prevent one service or group of services from subsidizing or being subsidized by another. This language is not meant to preclude the use of explicit universal service support mechanisms to maintain affordable rates.
    - (B) Pricing all services produced by a DCTU above long run incremental cost (LRIC) will ensure subsidy-free pricing.
    - (C) In a subsidy-free pricing environment, support for universal basic telecommunications service must come from an explicit subsidy, such as a Universal Service Fund.
    - (D) The transition to subsidy-free pricing should be undertaken in stages, in coordination with implementation of state and federal universal service support mechanisms and initiatives to reform pricing of access services.
  - (2) **Customer-specific pricing.** When set above incremental cost and not used in an anticompetitive manner, customer-specific pricing can benefit the general body of ratepayers and foster economic efficiency by encouraging utilization of under-utilized facilities.
  - (3) **Inefficient or uneconomic costs.** The commission has no obligation to ensure that a DCTU recovers inefficient or uneconomic costs.
- (e) **Basic network services.** Except as provided by paragraph (2) of this subsection, a DCTU may not exercise pricing flexibility for a basic network service.
  - (1) The following services are initially classified as basic network services:
    - (A) flat-rate residential and business local exchange telephone service, including primary directory listings and the receipt of a directory and any applicable mileage or zone charges;
    - (B) tone dialing service;
    - (C) lifeline and tel-assistance services;
    - (D) service connection for basic services;
    - (E) direct inward dialing service for basic services;
    - (F) private pay telephone access service;
    - (G) call trap and trace service;

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- (H) access to 911 service, where provided by a local authority, and access to dual party relay service;
- (I) switched access service;

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- (J) interconnection to competitive providers;
  - (K) mandatory extended area service arrangements;
  - (L) mandatory extended metropolitan service or other mandatory toll-free calling arrangements;
  - (M) interconnection for commercial mobile service providers;
  - (N) directory assistance; and
  - (O) 1+ intraLATA message toll service.
- (2) An electing local exchange company (LEC) may lower the rate for a basic network service to the service's price floor. For an electing LEC that is required by the commission to perform long run incremental cost studies or elects to perform those studies, the price floor for switched access service or for any basic local telecommunications service shall be LRIC. For any other electing LEC, the price floor for basic local telecommunications service shall be the appropriate cost of the service. Packaging basic network services with discretionary or competitive services is not permitted.
- (3) In setting the price of a basic network service, the commission shall pursue the goal of maintaining basic services at affordable rates for customers.
- (f) **Discretionary services.** Except as provided by paragraph (5) of this subsection, a DCTU may not exercise pricing flexibility for a discretionary service.
- (1) The following services shall initially be classified as discretionary services.
- (A) 1+ intraLATA message toll services, where intraLATA equal access is available;
  - (B) 0+, 0- operator services;
  - (C) call waiting, call forwarding, and custom calling features not classified as competitive services;
  - (D) call return, caller ID, and call control options not classified as competitive services;
  - (E) central office-based PBX-type services;
  - (F) billing and collection services;
  - (G) integrated services digital network (ISDN) services; and
  - (H) new services.
- (2) The price for a discretionary service shall not be set below LRIC or the price floor prescribed by §26.274 of this title (relating to Imputation), whichever is higher. An electing LEC may request the establishment of a price floor for a discretionary service that is above LRIC.
- (3) The price ceiling for a discretionary service initially offered on or before September 1, 1995 by an electing LEC is the rate in effect on September 1, 1995, without regard to proceedings pending under PURA §§12.004, 15.001, 15.002, 53.151 and 53.152 or under Government Code, Chapter 2001, Subchapter G. For services initially offered after September 1, 1995, the price ceiling shall be the rate in effect as of the effective date of this section. For services initially offered after the effective date of this rule, the price ceiling may not be set at more than 10% over the initial rate approved by the commission. In the event the electing LEC does not propose a price ceiling that is different from the initial rate for a service initially offered after the effective date of this rule, the initial rate approved by the commission shall serve as the price ceiling.
- (4) The price ceiling may be raised only after the proceedings required under PURA, Chapter 60. Thereafter, on application by the electing LEC or on the commission's own motion, the commission may change the price ceiling but may not increase the ceiling more than 10% annually.

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- (5) Within the range of the floor and the ceiling established pursuant to this subsection, an electing LEC may change the price of a discretionary service but shall notify the commission of each change. Such price changes may include volume and term discounts, zone density pricing, packaging of services, customer specific pricing, and other promotional pricing flexibility. Packaging of services may include packaging of an installation service or charge with provision of the corresponding service. An electing LEC lowering the price of any component of a package of services, including an installation charge, shall demonstrate that the package of services affected by the price change recovers its LRIC within one year of the price change.
- (6) Discounts and other forms of pricing flexibility for discretionary services may not be preferential, prejudicial, or discriminatory.
- (g) **Competitive services.** Except as provided by paragraphs (2) and (4) of this subsection, a DCTU may not exercise pricing flexibility for a competitive service.
  - (1) The following services shall initially be classified as competitive services:
    - (A) services described in the WATS tariff as of January 1, 1995;
    - (B) 800 and foreign exchange services;
    - (C) private line service;
    - (D) special access service;
    - (E) services from public pay telephones;
    - (F) paging services and mobile services (IMTS);
    - (G) 911 premises equipment;
    - (H) speed dialing; and
    - (I) three-way calling.
  - (2) The price for a competitive service shall not be set below LRIC or the price floor prescribed by §26.274 of this title, whichever is higher. An electing LEC may request the establishment of a price floor for a competitive service that is above the floor prescribed by this paragraph.
  - (3) An electing LEC may set the price for a competitive service at any level above the floor prescribed in this subsection. Permissible pricing flexibility includes volume and term discounts, zone density pricing, packaging of services, customer specific contracts, and other promotional pricing flexibility, subject to the requirements of PURA §60.001 and §60.002. However, an electing LEC may not increase the price of a service in a geographic area in which that service or a functionally equivalent service is not readily available from another provider. The pricing flexibility allowed by this subsection permits the packaging of a competitive service with one or more discretionary services only if the DCTU demonstrates that the rate for the package of services is greater than the sum of the LRIC of the competitive service and the tariffed rates of the discretionary services included in the package.
  - (4) Prices for competitive services may not be unreasonably preferential, prejudicial, or discriminatory.