

The Public Utility Commission of Texas (commission) proposes new §26.34 relating to Telephone Prepaid Calling Services. The proposed new rule will implement the provisions of the Public Utility Regulatory Act (PURA) §55.253 (Vernon Supplement 2000), which permits the commission to prescribe standards regarding the information a prepaid calling services provider must disclose to customers in relation to the rates and terms of service for prepaid calling services offered in Texas. Project Number 21424, *Prepaid Calling Services Disclosures*, was assigned to this proceeding on September 22, 1999. An informal workshop with commission staff and interested parties was conducted on March 2, 2000. Copies of the proposed new rule may be obtained in the commission's Central Records and on the commission's web page at <http://www.puc.state.tx.us/telecomm/projects/21016/21424.cfm>.

Denise E. Taylor, Senior Enforcement Investigator, Office of Customer Protection, and Betsy Tyson, Information Specialist, Office of Customer Protection, have determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this section.

Ms. Taylor and Ms. Tyson have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be greater protection of the public interest, a reduction in the number of public complaints concerning the use of

prepaid calling services, and compliance by telecommunications utilities with the telephone prepaid calling services provisions of PURA. There will be no effect on small businesses or microbusinesses as a result of enforcing this section. There is an anticipated economic cost to persons who are required to comply with the section as proposed which cannot be quantified at this time.

Ms. Taylor and Ms. Tyson have also determined that for each year of the first five years the proposed section 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 §2001.022.

The commission staff will conduct a public hearing on this rulemaking under Government Code §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Friday, May 26, 2000, at 9:00 a.m. in Hearing Room Gee.

Comments on the proposed new rule (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted within 45 days after publication.

The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 21424.

This rule is proposed under Senate Bill 1020, Act of May 26, 1999, 76th Legislature, Regular Session, chapter 410, 1999 Texas Session Law Service, 2636 (Vernon) (codified as an amendment to the Public Utility Regulatory Act (PURA)), Senate Bill 86, Act of May 26, 1999, 76th Legislature, Regular Session, chapter 1579, §3, 1999 Texas Session Law Service, 5421, 5424 (Vernon), (codified as an amendment to PURA §§17.051-17.053), Senate Bill 560, Act of May 26, 1999, 76th Legislature, Regular Session, chapter 1212, §55, 1999 Texas Session Law Service, 4237 (Vernon) (codified as an amendment to PURA §§64.051-64.053), and PURA, §§14.002, 15.023, 17.004, 17.051, 17.052, 55.253, 64.051, and 64.052. Section 14.002 provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. Section 15.023 grants the commission authority to impose an administrative penalty against an entity for violation of a rule adopted under PURA. Section 17.004 grants the commission authority to adopt and enforce rules as necessary or appropriate to establish adequate customer protection standards. Sections 17.051 and 64.051 direct the commission to adopt registration requirements for all telecommunications utilities that are not dominant carriers. Sections 17.052 and 64.052 allow the commission to require registration as a condition of doing business in Texas as well as to establish customer service and protection rules. Section 55.253 grants the commission all necessary jurisdiction to adopt rules regarding the information a prepaid calling services provider shall disclose to customers in relation to the rates and terms of service for prepaid calling services offered in Texas.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 15.023, 17.004, 17.051, 17.052, 55.253, 64.051, and 64.052.

§26.34. Telephone Prepaid Calling Services.

- (a) **Purpose.** The provisions of this section are intended to prescribe standards for the information a prepaid calling services provider shall disclose to customers about the rates and terms of service for prepaid calling services offered in this state.
- (b) **Application.** This section applies to any "telecommunications utility" as that term is defined in §26.5 of this title (relating to Definitions). This section does not apply to a credit calling card in which a customer pays for a service after use and receives a monthly bill for such use.
- (c) **Liability.** The prepaid calling services company shall be responsible for ensuring, either through its contracts with its network provider, distributors and marketing agents or other means, that:
 - (1) end-user purchased prepaid calling services remain usable in accordance with the requirements of this section; and
 - (2) compliance requirements of all disclosure provisions of this section are met.
- (d) **Definitions.** The following terms used in this section shall have the following meanings, unless the context indicates otherwise:

- (1) **Access telephone number** – The number that allows a prepaid calling services customer to access the services of a telecommunications utility to place telephone calls.
- (2) **Billing increment** – A unit of time used to charge customers for prepaid calling services.
- (3) **Personal identification number (PIN)** – A number assigned as an authorization code that ensures system security for a prepaid calling services customer and allows the prepaid calling services company to track minutes used.
- (4) **Prepaid calling services account** – An amount of money paid by a customer in advance to a prepaid calling services company so that the customer can access the services of a telecommunications utility to place telephone calls. When the customer makes completed telephone calls, the value of the account decreases at a predetermined rate.
- (5) **Prepaid calling card** – A card or any other device purchased to establish a prepaid calling services account.
- (6) **Prepaid calling services** – Any telecommunications transaction in which:
 - (A) a customer pays in advance for telecommunications services;
 - (B) the customer's prepaid calling services account is depleted at a predetermined rate as the customer uses the service; and
 - (C) the customer must use a PIN and an access telephone number to use the telecommunications services.

- (7) **Prepaid calling services company** – A company that provides prepaid calling or other telecommunications services to the public using its own telecommunications network or resold telecommunications services, or distributors who purchase PINs or telecommunications services to resell to the end-user customer.
 - (8) **Recharge** – A transaction in which the value of the prepaid calling services account is renewed. The customer must be informed verbally or electronically of the new rates at the time of recharge.
- (e) **Billing requirements for prepaid calling services.**
- (1) Billing increments shall be defined and disclosed in the prepaid calling services company's published tariffs or price list on file with the commission and on any display at the point of sale as well as on any prepaid calling card, or on any prepaid calling card packaging.
 - (2) A prepaid calling services account may be decreased only during the actual time a circuit is open. Station busy signals and unanswered calls shall not be considered open circuits and shall not be charged against the account.
 - (3) Prepaid calling services companies may not reduce the value of a prepaid calling services account by more than the company's published tariffs or price list on file with the commission plus any surcharges, fees and taxes disclosed at the time of purchase.
 - (4) The prepaid calling services account may be recharged by the customer at a rate different from the original rate or the last recharge rate as long as the new rate and any

surcharges conform with the company's published tariff or price list on file with the commission at the time of recharge. The customer must be informed of the rates at the time of recharge.

- (5) Upon verbal or written request, prepaid calling services companies must be capable of providing customers the following call detail data information at no charge:
 - (A) Dialing and signaling information that identifies the inbound access telephone number called or the access identifier;
 - (B) The number of the originating telephone;
 - (C) The date and time the call originated;
 - (D) The date and time the call terminated;
 - (E) The called telephone number; and
 - (F) The PIN and/or account number associated with the call.
- (6) Prepaid calling services companies shall maintain call detail data records for at least two years.

(f) **Written disclosure requirements for all prepaid calling services.**

- (1) **Information required on prepaid calling cards.** Cards must be issued with all information entirely in the language in which the card is marketed. At a minimum, a card must contain the following information printed in an eight point font:
 - (A) The value of the card, including charges for all services, surcharges, fees, and taxes, if applicable, expressed in minutes. If a charge cannot be expressed in

minutes, such as a per-call charge, it must be printed on the same line or next line as the value of the card in minutes;

- (B) The prepaid calling services company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language shall clearly indicate that the company is providing the prepaid calling services;
- (C) The toll-free number as required by subsection (i) of this section;
- (D) The maximum cost per minute shall be shown for local, intrastate, and interstate calls. International call prices shall be provided to the customer through a toll-free number printed on the card;
- (E) Instructions on using the card correctly;
- (F) Expiration date, if the card cannot be used after a date certain. If an expiration date is not disclosed on the card, it will be considered active indefinitely; and
- (G) The words "VOID" or "SAMPLE" or sequential numbers, such as "999999999" on both sides of the card if the card was produced as a "non-active" card so that it is obvious to the customer that the card is not useable. If the card is not so labeled, the card is considered active and the issuing company shall honor it.

- (2) **Information required at a point of sale.** The following information shall be legibly printed on or in any packaging in a minimum eight point font and displayed visibly in a

prominent area at the point of sale so that the customer may make an informed decision before purchase:

- (A) The value of the card, including charges for all services, surcharges, fees, and taxes, if applicable, expressed in minutes. If a charge cannot be expressed in minutes, such as a per-call charge, it must be printed on the same line or next line as the value of the card in minutes;
- (B) The company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language shall clearly indicate that the company is providing the prepaid calling card services;
- (C) The toll-free number as required by subsection (i) of this section;
- (D) The billing increment expressed in minutes or fractions of minutes and maximum charge per billing increment for prepaid calling card services for local, intrastate, interstate, and international calls will be provided to the customer through a toll-free number printed on the card;
- (E) The expiration policy, if the card cannot be used after a date certain. If an expiration date is not disclosed at the time of purchase, the prepaid calling services will be considered active until the prepaid calling services account is completely depleted;
- (F) The recharge policy, if applicable. If an expiration date is not disclosed at the time prepaid calling services are recharged, the services will be considered active until the prepaid calling services account is completely depleted;

- (G) A statement that if a customer is unable to resolve a complaint with the company that the customer has the right to contact the state regulatory agency which has jurisdiction within the state where the prepaid calling services were purchased; and
 - (H) A statement that:
 - (i) Notifies a customer of the customer's extent of liability for lost or stolen cards, if there is liability; and
 - (ii) Warns a customer to safeguard the card against loss or theft.
 - (3) If a customer asks a prepaid calling services company how to file a complaint, the company must provide the following contact information: Public Utility Commission of Texas, Office of Customer Protection, PO Box 13326, Austin, Texas 78711-3326; phone: (512) 936-7120 or in Texas (toll-free) 1-888-782-8477; fax: (512) 936-7003; e-mail address: customer@puc.state.tx.us; Internet address: www.puc.state.tx.us; TTY: (512) 936-7136; and Relay Texas (toll-free): 1-800-735-2989.
- (g) **Verbal disclosure requirements for prepaid calling services.** Prepaid calling services companies shall provide an announcement:
- (1) At the beginning of each call indicating the time remaining on the prepaid calling services account or prepaid calling card; and
 - (2) When the prepaid account or card balance is about to be completely depleted. This announcement must be made at least one minute before the time expires.

- (h) **Registration requirements for prepaid calling services companies.** All prepaid calling services companies shall register with the commission in accordance with §26.107 of this title (relating to Registration of Nondominant Telecommunications Carriers).

- (i) **Business and technical assistance requirements for prepaid calling services companies.** A prepaid calling services company shall provide a toll-free number with a live operator to answer incoming calls 24 hours a day, seven days a week or electronically voice record customer requests or complaints. A combination of live operators or recorders may be used. If a recorder is used, the prepaid calling services company shall attempt to contact each customer no later than the next business day following the date of the recording. Personnel must be sufficient in number and expertise to resolve customer inquiries. If an immediate resolution is not possible, the prepaid calling services company shall resolve the inquiry by calling the customer or, if the customer so requests, in writing within ten working days of the original request.

- (j) **Requirements for refund of unused balances.** If a prepaid calling services company fails to provide services at the rates disclosed at the time of initial purchase or at the time an account is recharged, or fails to meet technical standards, the prepaid calling services company shall either refund the customer for any unused prepaid calling services or provide equivalent services.

(k) **Requirements when a prepaid calling services company terminates operations in this state.**

- (1) When a prepaid calling services company expects to terminate operations in this state for any reason, the company shall at least 30 days prior to the termination of operations:
 - (A) Notify the commission in writing:
 - (i) That operations will be ending;
 - (ii) Of the date of the termination of operations; and
 - (iii) That the company certifies that the actions required by this subsection have been completed;
 - (B) Notify each customer at the address on file with the company, if applicable, that operations will be ending the date of the termination of operations, and explain how customers may receive a refund or equivalent services for any unused services;
 - (C) Announce the termination of operations at the beginning of each call, including the date of termination and a toll-free number to call for more information; and
 - (D) Provide to customers via its toll-free customer service number the procedure for obtaining refunds and continue to provide this information for at least 60 days after the date the company terminates operations.
- (2) Within 24 hours after ceasing operations, the prepaid calling services company shall deliver to the commission a list of names, if known, and account numbers of all customers with unused balances. For each customer, the list shall include the following:

- (A) The identification number used by the company for billing and debit purposes;
and,
 - (B) The unused time, stated in minutes, as applicable, and the unused dollar amount
of the prepaid calling services account.

- (l) **Date of compliance for prepaid calling card services companies.** All prepaid calling
services offered for sale in the state of Texas and all prepaid calling services companies shall be
in compliance with this rule within 90 days of the effective date of this rule.

- (m) **Compliance and enforcement.**
 - (1) **Administrative penalties.** If the commission finds that a prepaid calling services
company has violated any provision of this section, the commission shall order the
company to take corrective action, as necessary, and the company may be subject to
administrative penalties and other enforcement actions pursuant to the Public Utility
Regulatory Act, Chapter 15.
 - (2) **Enforcement.** The commission shall coordinate its enforcement efforts against a
prepaid calling services company for fraudulent, unfair, misleading, deceptive, or
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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 24th DAY OF MARCH, 2000 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**