

The Public Utility Commission of Texas (commission) proposes new §26.102 relating to Registration of Pay Telephone Service Providers, §26.341 relating to General Information Relating to Pay Telephone Service, §26.342 relating to Pay Telephone Tariff Provisions, §26.343 relating to Responsibilities for Pay Telephone Service of Certificated Telecommunications Utilities Holding Certificates of Convenience and Necessity, §26.344 relating to Pay Telephone Service Requirements, §26.345 relating to Posting Requirements for Pay Telephone Service Providers, §26.346 relating to Rates and Charges for Pay Telephone Service, and §26.347 relating to Fraud Protection for Pay Telephone Service. These sections will replace §23.54 of this title relating to Pay Telephone Service. Project Number 20787 has been assigned to this proceeding.

The Appropriations Act of 1997, HB 1, Article IX, Section 167 (Section 167) requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Such reviews shall include, at a minimum, an assessment by the agency as to whether the reason for adopting or re-adopting the rule continues to exist. The commission held three workshops to conduct a preliminary review of its rules. As a result of these workshops, the commission is reorganizing its current substantive rules located in 16 Texas Administrative Code (TAC) Chapter 23 to (1) satisfy the requirements of Section 167; (2) repeal rules no longer needed; (3) update existing rules to reflect changes in the industries regulated by the commission; (4) do clean-up amendments made necessary by changes in law and commission

organizational structure and practices; (5) reorganize rules into new chapters to facilitate future amendments and provide room for expansion; and (6) reorganize the rules according to the industry to which they apply. Chapter 26 has been established for all commission substantive rules applicable to telecommunications

service providers. The duplicative sections of Chapter 23 will be proposed for repeal as each new section is proposed for publication in the new chapter.

The proposed new sections reflect different section, subsection, and paragraph designations due to the reorganization of the rules. Citations to the Public Utility Regulatory Act have been updated to conform to the Texas Utilities Code throughout the sections and citations to other sections of the commission's rules have been updated to reflect the new section designations. Some text has been proposed for deletion as unnecessary in the new sections because the dates and requirements in the text no longer apply due to the passage of time and/or fulfillment of the requirements. The *Texas Register* will publish these sections as all new text. Persons who desire a copy of the proposed new sections as they reflect changes to the existing section in Chapter 23 may obtain a redlined version from the commission's Central Records under Project Number 20787.

Charles E. Johnson, Attorney, Office of Regulatory Affairs, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Johnson has determined that for each year of the first five years the proposed sections are in effect the public will benefit because it is anticipated the pay telephone industry will be able to more easily interpret and apply the new rules. As a result, the public should expect better pay telephone service that is in compliance with commission rules. There will be no effect on small businesses as a result of enforcing these sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Mr. Johnson has also determined that for each year of the first five years the proposed sections are in effect there should be no affect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

Comments on the proposed new sections (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 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. The commission also invites specific comments regarding the Section 167 requirement as to whether the reason for adopting §23.54 continues to exist in adopting these new sections to replace §23.54. The commission invites specific comments regarding whether any of the proposed sections should be deleted or amended. All comments should refer to Project Number 20787.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (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 specifically PURA §55.173 which requires pay telephone service providers to register with the commission.

Cross-Reference to Statutes: Public Utility Regulatory Act §§14.002 and 55.173

§26.102. Registration of Pay Telephone Service Providers.

- (a) All pay telephone service (PTS) providers must register with the commission, using commission-prescribed forms, in order to do business in the state of Texas. Registration requires disclosure of the physical location of each of the registrant's pay telephones; the registrant must update this information for any phone with a change in status. Information related to the physical location of pay telephones shall be confidential unless the Attorney General issues a letter opinion, or a court of competent jurisdiction rules otherwise. Updated filings shall be made with the commission within 45 days after the periods ending December 31 and June 30 of each calendar year. The commission shall provide each registrant with proof of registration within 30 days of filing.

- (b) Certificated telecommunications utilities (CTU) shall not provide pay telephone access service (PTAS) to a person required to be registered under this section, unless that person provides a commission-supplied proof of registration.

These new sections are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (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 specifically PURA, Chapter 55, Subchapter H, Pay Telephones, which establishes the commission's authority over pay telephone service and pay telephone service providers.

Cross-Reference to Statutes: Public Utility Regulatory Act §§14.002, 55.171, 55.172, 55.173, 55.174, 55.175, 55.176, 55.177, 55.178, 55.179, and 55.180.

§26.341. General Information relating to Pay Telephone Service (PTS).

- (a) **Definition.** The term "rate information", when used in this subchapter, shall mean all charges ultimately charged by the PTS provider, including any surcharges, fees, and any other form of compensation charged by the PTS provider on behalf of the call aggregator.
- (b) **Registration.** All pay telephone service providers shall register with the commission pursuant to §26.102 of this title (relating to Registration Requirements for Pay Telephone Service Providers).
- (c) **Violation of regulations.** The commission may order disconnection of service for up to one year for repeat violations of commission rules. A PTS provider who violates commission rules

is also subject to administrative penalties, civil penalties, and injunctive relief under the Public Utility Regulatory Act (PURA), Chapter 15, Subchapter B.

§26.342. Pay Telephone Service Tariff Provisions.

- (a) **Available upon request.** Upon formal request for service by any prospective provider of pay telephone service (PTS), a certificated telecommunications utility (CTU) is required to file a tariff providing for interconnection of customer-owned pay telephones, except as otherwise provided in subsection (b) of this section.

- (b) **Special assembly tariffs.** A CTU with fewer than 50 pay telephone lines may provide pay telephone access service (PTAS) pursuant to existing special assembly tariffs; however, in no event may a CTU provide to more than ten special assembly arrangements. Special assembly rates must be computed in accordance with this section. CTUs that provide PTAS pursuant to special assembly tariffs must enter into a written agreement with the PTS provider that requires the provider to perform all functions and obligations specified in §26.344 of this title (relating to Pay Telephone Service Requirements). When a CTU that holds a certificate of convenience and necessity (CCN) makes its initial filing to offer PTAS, the application must include the proposed tariff, cost studies or a commission approved rate for similar services offered by a larger CTU holding a CCN.

- (c) **Enforcement of tariff requirements.** If a PTS provider is in violation of a tariff provision, the CTU must notify the PTS provider of the violation in writing. Such notice must refer to the specific tariff provisions being violated. The notice must state that the PTS provider is subject to disconnection by the CTU of the instrument(s) in violation of the tariff unless the PTS provider corrects the violation and notifies the CTU in writing, within 20 days of receipt of the notice of the violation, that the violation has been corrected. The CTU may disconnect the instrument(s) that are in violation of the tariff on or after the 20th day after receipt of the notice by the PTS provider, if the PTS provider did not notify the CTU in writing within 20 days of receipt of the notice that the violation was corrected. However, if the PTS provider has filed a complaint with the commission regarding the disconnection and has provided the CTU with a copy of the complaint that indicates that the complaint has been filed with the commission within 20 days of receipt of the notice of a violation from the CTU, the CTU may not disconnect the instrument(s) pending resolution of the complaint by the commission.

§26.343. Responsibilities for Pay Telephone Service (PTS) of Certificated Telecommunications Utilities (CTUs) Holding Certificates of Convenience and Necessity (CCN).

- (a) A listing in the local telephone directory, for each pay telephone, must be provided to any provider of pay telephone service on request.

- (b) Pay telephone access service (PTAS) must be available in all exchanges.
- (c) Incoming and outgoing call screening on pay phone calls must be provided where facilities are available.
- (d) Regardless of whether call screening is available, the CTU will not bill any call, including, but not limited to, third number billed, collect, "0+" or "0-" calls, to a number which has been clearly identified to the certificated telecommunications utility operator at the time of the call attempt as a pay telephone. The certificated telecommunications utility will not be responsible for refunds or adjustments of charges for calls placed through non-certificated telecommunications utilities carrier operators, except as provided in §26.347 of this title (relating to Fraud Protection for Pay Telephone Service).
- (e) The CTU need not initiate a maintenance service call or take any other action in response to a trouble report on a customer-owned pay telephone until such time as requested by the pay telephone owner or its agent. The pay telephone owner must keep the CTU advised of the identity of the pay telephone owner or agent authorized to request a maintenance service call.
- (f) The CTU must provide to a PTS provider using automated call completion technology to complete operator service calls the same services and information that the CTU provides to interexchange carriers in §26.313(d)(1) and (2) of this title (relating to General Requirements

Relating to Operator Services), on the same prices, terms, and conditions that any interexchange carrier receives from the CTU.

- (g) CTUs must file tariffs to offer direct dialed international call blocking ("011+" and "10XXX+011+") as facilities become available.

§26.344. Pay Telephone Service Requirements.

- (a) **Requirements before call is completed.** If the pay telephone service (PTS) provider uses automated call completion technology to complete operator service calls, the provider of PTS must:
- (1) audibly and distinctly identify itself to the caller upon answering;
 - (2) audibly and distinctly identify itself to the billed party, if the billed party is different from the caller;
 - (3) provide a mechanism for the caller to obtain rate information, without charge, 24 hours a day, seven days a week; and
 - (4) permit the caller or billed party to terminate the call at no charge prior to completion of the call by the PTS provider.
- (b) **E911 or 911 calls, and "0-" calls.** The PTS provider must allow E911 or 911 calls to be outpulsed directly to the Public Service Answering Point at no charge and without requiring a coin or credit card. This requirement does not apply to pay telephones accessible to inmates of confinement facilities.
- (c) **Access.**
- (1) The PTS provider must:
 - (A) provide access to operator services, 24 hours a day, seven days a week, at no charge and without requiring a coin or credit card;
 - (B) provide access to directory assistance, 24 hours a day, seven days a week;

- (C) provide access that includes the local exchange calling scope of the certificated telecommunications utility (CTU) furnishing the pay telephone access service (PTAS) including mandatory extended area service (EAS) and expanded local calling (ELC), except that ELC rate additives are not applicable to PTS access lines; and
 - (D) provide access to the operator of a local exchange company that meets the requirements enumerated in §26.315(c) of this title (relating to Requirements for Dominant Certificated Telecommunications Utilities (DTCUs)) and that serves the area from which the call is made, at no charge and without requiring a coin or credit card, either:
 - (i) by directly routing all local operator calls to such local exchange company operator, without charge to the caller; or
 - (ii) by transfer or redirection of the call by an operator service provider (OSP) in accordance with the provisions of §26.319(1)(A)(ii)(I)-(III) of this title (relating to Access to the Operator of a Local Exchange Company (LEC)).
- (2) The PTS provider must also allow access to other telecommunications utilities unless otherwise provided in subparagraph (C) of this paragraph.
- (A) Access to interexchange carriers by "950-XXXX" and "1-800" or "1-888" numbers must not be blocked.

- (B) Access to interexchange carriers by "10XXX+0" (whether "10XXX+0+" or "10XXX+0-") dialing must not be blocked if the end office serving the originating line has originating line screening (OLS) capability.
 - (C) To prevent fraudulent use of the pay telephone, the access requirement is explicitly waived under the following conditions without prior application to the commission:
 - (i) Access to interexchange carriers by "10XXX+0" (whether "10XXX+0+" or "10XXX+0-") dialing may be blocked, if the end office serving the originating line does not have OLS screening capability.
 - (ii) Access to interexchange carriers by "10XXX+1" dialing may be blocked.
 - (3) The requirements of this paragraph do not apply to pay telephones accessible to inmates of confinement facilities.
- (d) **Other.**
- (1) The PTS provider must:
 - (A) ensure that end users can place all local and toll calls, except direct-dialed international calls, from the pay telephone, including, but not limited to, operator-assisted international calls, collect calls, third number billed calls, and calling card calls;

- (B) be responsible for the payment of charges for all local and toll messages, including, but not limited to, non-local directory assistance charges, except as provided in §26.347 of this title (relating to Fraud Protection for Pay Telephone Service);
- (C) comply with all applicable federal, state and local laws and regulations including those concerning the use of pay telephones by disabled and/or hearing- or speech-impaired persons;
- (D) not attach extension telephones to pay telephones, unless the pay telephone displays a notice that legibly and conspicuously states in capital letters, "YOUR CONVERSATION MAY BE OVERHEARD BECAUSE AN EXTENSION TELEPHONE IS ATTACHED TO THIS PHONE LINE.";
- (E) not impose a time limit on local calls;
- (F) ensure operator-assisted intrastate long distance usage sensitive rates are billed in increments of one minute or less, provided that the total per minute fee does not exceed the rate authorized in §26.346 of this title (relating to Rates and Charges for Pay Telephone Service);
- (G) return to the end-user any pre-paid fee for a direct dialed intrastate long distance and/or local call that does not result in a completed call;
- (H) not charge the caller for any uncompleted call in accordance with the provisions of §26.313(c)(1)-(4) of this title (relating to General Requirements Relating to Operator Services);

- (I) not charge a fee for a local call greater than that posted on the informational placard attached to each pay phone;
 - (J) provide access to ILEC operators by dialing either "0" or "00" access codes;
and
 - (K) the requirements of paragraph (1)(A) and (E) of this subsection do not apply to pay telephones accessible to inmates of confinement facilities.
- (2) If the PTS provider uses automated call completion technology to complete operator service calls, and if validation information is available for calls that the PTS provider (or a third-party billing and collection agent operating on behalf of the PTS provider) will bill through a certificated telecommunications utility, the PTS provider is required to validate the call and is allowed to submit the call for billing only if the call was validated.
- (3) PTS may be connected to, from, or through a customer-provided telecommunications switching system, or local exchange carrier-provided central office switching system, provided that the PTS provider meets all requirements of this rule. The PTS provider must ensure that access to E-911, 911 and/or 0- is not blocked and must comply with all legislative and rule requirements regarding the operation of E-911 and 911. This access configuration is not allowed if it prevents usage measurement, by the local exchange carrier, of a local exchange carrier-provided PTAS line. For purposes of this paragraph, local exchange carrier is defined as any entity holding either a certificate of convenience and necessity (CCN), certificate of operating authority (COA), or service provider certificate of operating authority (SPCOA).

(e) **Applications for waivers of the requirement for access.**

The commission may approve waivers to the access requirements of subsection (c) of this section to prevent fraudulent use of telephone services or for other good cause. Applications for waiver may be filed by the provider of pay telephone service. The commission shall process such applications for waiver using the criteria and procedures set forth in §26.319(3)(B) of this title.

§26.345. Posting Requirements for Pay Telephone Service Providers.

- (a) The pay telephone service (PTS) provider must attach to each instrument a card that provides:
- (1) instructions in English and Spanish for accessing emergency service subject to the conditions contained in subparagraphs (A) and (B) of this paragraph:
 - (A) where E-911 or 911 emergency service is available, the caller must be instructed to dial 911 and the PTS provider must allow E-911 or 911 calls to be outpulsed directly to the Public Service Answering Point at no charge and without requiring a coin or credit card; or
 - (B) where E-911 or 911 is not available, the caller must be instructed to dial "0" and dialing "0" must, at no charge and without requiring a coin or credit card, directly connect the caller with an operator service provider (OSP) that is in

compliance with the technical standards set forth in §26.321(b)~~(g)(2)(A)-(F)~~ of this title (relating to 9-1-1 calls, "0-" calls, and End User Choice);

- (2) instructions for use, including specifically instructions for completion of local and toll calls, access to operator services, access to directory assistance, obtaining refunds, obtaining repair service, registering complaints at a designated toll-free telephone number, reporting out-of-service conditions, and using one-way calling (if the instrument is so equipped); and
 - (3) notice stating the name, address, and ten digit telephone number for the pay telephone owner or agent providing the set, and providing the name and toll-free telephone number of the owner or agent responsible for refunds and repairs; and
 - (4) if an extension has been attached, a notice that legibly and conspicuously states in capital letters: "YOUR CONVERSATION MAY BE OVERHEARD BECAUSE AN EXTENSION TELEPHONE IS ATTACHED TO THIS PHONE LINE."; and
 - (5) a placard that clearly states the fee for completing a local call from that telephone.
- (b) PTS providers must also attach to each instrument a card that says : "The long distance carrier serving this phone is {insert name of the pre-subscribed operator service provider}. You can learn what its rates are by calling {insert operator service providers' toll-free rate information phone number} at any hour at no cost to you. If you would rather use another long distance carrier, you can either use {insert name of incumbent local exchange provider}'s operator by

calling {insert dialing directions here}, or use your own long distance carrier by following its dialing instructions or asking the operator for assistance."

- (c) If the PTS provider subscribes to the services of an operator service provider (OSP) that is required to comply with Subchapter M of this chapter (relating to Operator Services), the PTS provider remains liable for compliance with this section, but may coordinate with the OSP so that information to be provided at the pay telephone set is not duplicated. If the PTS provider uses automated call completion technology to complete some operator service calls and subscribes to the services of an OSP that is required to comply with Subchapter M of this chapter, the PTS provider must ensure that the information provided at the pay telephone set clearly informs the caller about which information applies to which operator service calls.
- (d) If a pay telephone cannot receive incoming calls, the PTS provider shall place in a conspicuous location on the pay telephone a notice, in letters one-quarter inch high, stating, "THIS TELEPHONE CANNOT RECEIVE TELEPHONE CALLS." Furthermore, the PTS provider shall not display the number of the pay telephone on any such telephone that does not receive incoming calls.
- (e) The requirements of this subsection do not apply to pay telephones accessible to inmates of confinement facilities.

(f) **Applications for modification of information to be provided at the pay telephone set.**

The commission may approve applications for modification of the requirements contained in subsection (b) and (c) of this section upon showing of good cause by the PTS provider. The commission shall process applications for modification using the criteria and procedures set forth in §26.317(c) of this title (relating to Information to be Provided at the Telephone Set).

§26.346. Rates and Charges for Pay Telephone Service.

(a) **Rate structure.** Certificated telecommunications utility (CTU) rates for wholesale service must be designed on a flat access line and/or a local message usage rate basis. Multi-element measured rates are prohibited. In areas without measuring capabilities, the CTU may use a flat rate usage surrogate instead of a per call message rate. Measurement capabilities are defined as the capability in place to measure and bill pay telephone usage without incurring unreasonable expense.

(b) **Charges.**

(1) **A pay telephone service (PTS) provider must:**

(A) not impose on pay phone end users any charge for calls made under Chapter 771 or 772 of the Texas Health and Safety Code;

- (B) not impose a charge for "950-XXXX" calls, "10XXX+0", or "1-800" or "1-888"-type calls to nonpresubscribed interexchange carriers (for example "1-800-COLLECT" , "1-800-CALLATT", or "1-800-877-8000");
- (C) not impose a charge for local calls from pay telephones to the Telecommunications Relay Service (TRS);
- (D) for local calls which are collect, operator-assisted or paid by credit card or calling card, not impose a charge which exceeds the highest applicable rate for such calls of any of the four largest interexchange carriers operating in this state; and
- (E) for credit card, calling card, or live or automated operator-handled toll calls, not charge a rate or total charge that exceeds the authorized rates and charges listed in subparagraph (F) of this paragraph.
- (F) charge no more than these rate caps for intrastate long distance and operator-assisted calls at Texas pay phones:

| Mileage | 1st Min. | Add'l Min. |
|--------------------------------------|-----------------|-------------------|
| 0 - 10 | .2975 | .2625 |
| 11 - 22 | .3150 | .2975 |
| 23 - 55 | .3325 | .3150 |
| 56 - 124 | .3675 | .3500 |
| 125 - 292 | .4025 | .3850 |
| 293 - Over | .4200 | .4025 |
| Operator Service Charges: | | |
| Customer-Dialed Calling Card Station | | \$2.50 |
| Operator-Dialed Station | | \$3.75 |
| Person To Person | | \$4.50 |
| Long Distance Access Fee | | \$1.00 |

- (2) The requirements of paragraph (1)(A) through (C) of this subsection do not apply to pay telephones accessible to inmates of confinement facilities.

§26.347. Fraud Protection for Pay Telephone Service.

- (a) Notwithstanding the provision of §26.319 (1)(C) of this title (relating to Access to the Operator of a Local Exchange Company (LEC)) that would otherwise require notice to interexchange carriers, an operator services provider (OSP) must not bill the pay telephone service (PTS) provider for charges for any call billed to a pay telephone line where the call originated at that pay telephone by use of "10XXX+0", "10XXX+01", "950-XXXX", or "1-800" or "1-888" access codes, or where the call(s) originated at that pay telephone and otherwise reached an operator position, if the originating telephone line was subscribed to outgoing call screening and the call was placed after the effective due date of the outgoing call screening service order.
- (b) An OSP or PTS provider that uses automated call completion technology to complete operator service calls must not bill charges for any collect or third number billed call to a PTS provider if the pay telephone line to which the call was billed was subscribed to incoming call screening and the call was placed after the effective due date of the incoming call screening service order.
- (c) Any calls billed through a certificated telecommunications utility in violation of subsections (a) and (b) of this section must be removed from the PTS provider's bill by the certificated telecommunications utility upon identification and verification that the violation occurred. If it is determined that, at the time of the violation, the appropriate incoming or outgoing call screening was available to the OSP or PTS provider that uses automated call completion technology to

complete operator service calls at the time of the call, the certificated telecommunications utility may return the charges for said call to the OSP or PTS provider as unbillable.

- (d) Any calls billed directly by an OSP or PTS provider that uses automated call completion technology to complete operator service calls in violation of subsection (a) or (b) of this section must be removed from the PTS provider's bill by the OSP or PTS provider upon identification. The OSP or PTS provider using automated call completion technology to complete operator service calls may request an investigation of such a call by the certificated telecommunications utility serving the pay telephone to which the call was billed. If the certificated telecommunications utility (CTU) determines that the appropriate incoming or outgoing call screening was not available to the OSP or PTS provider using automated call completion technology to complete operator service calls at the time of the call, the OSP or PTS provider may bill the charges for said call to the relevant certificated telecommunications utility.

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 4TH DAY OF OCTOBER, 1999 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**