

The Public Utility Commission of Texas (commission) proposes new §26.52 relating to Emergency Operations, §26.53 relating to Inspections and Tests, §26.54 relating to Service Objectives and Performance Benchmarks, and §26.55 relating to Monitoring of Service. The proposed new sections will replace §23.61(c) - (f) of this title (relating to Telephone Utilities). These sections are necessary to ensure safe, reliable, and quality service for telecommunications customers. Project Number 19666 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 readoption 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 readopting 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.

General changes to rule language:

The proposed new sections reflect different section, subsection, and paragraph designations due to the reorganization of the rules. 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 19666.

Other changes specific to each section:

Proposed new §26.52 will replace §23.61(c) of this title as it pertains to emergency operations. There were no substantive changes to this section.

Proposed new §26.53 will replace §23.61(d) of this title as it pertains to inspections and tests. There were no substantive changes to this section.

Proposed new §26.54 will replace §23.61(e) of this title as it pertains to service objectives and surveillance levels. Previously, the rule required that all switched voice circuits shall be adequately designed and maintained to allow transmission of at least 2,400 bits of data per second when connected

through an industry standard modem (CCITT V.22bis or equivalent) or a facsimile machine. To reflect current industry standards and to delete certain obsolete standards, all references to 2,400 bits of data have been changed to 14,400 bits of data per second when connected through an industry standard modem (ITU-T V.32bis) or a facsimile machine. Compliance dates were modified to allow telephone utilities adequate time to comply with the new standards.

Additionally, in order to assure adequate service standards, comments are requested regarding violations of the performance benchmarks and what appropriate penalties/remedies should be enacted for each respective violation. The following questions should be addressed:

1. Is the deadline for compliance with the 14,400 bits of data per second standard (by the end of 2002) appropriate?
2. Should the deadline for the 14,400 bits of data per second standard be different for companies of different sizes or for lines with loop lengths greater than some given distance?
3. Are there any other factors that might justify a different deadline?
4. What would be an appropriate penalty for a violation of a performance benchmark?
5. Should there be a difference between severity of violations?
6. If so, should the severity of the penalty for non-compliance with the performance benchmarks be based on:
 - (a) The number of months by which the performance benchmark is missed?
 - (b) The percent by which the performance benchmark is missed?

- (c) The specific performance benchmark that is missed (i.e. different penalties for different benchmarks)?
 - (d) The size of the company?
 - (e) The number of access lines?
7. How should a violation be calculated?
- (a) An overall company average?
 - (b) On an exchange by exchange basis?
 - (c) On a wire center by wire center basis?
 - (d) By each specific occurrence (i.e. each separate transaction with the end use customer)?
8. Should there be a cap with respect to the amount a DCTU could potentially be assessed?
9. If so, should the cap be on a monthly or yearly basis?
10. Should the penalty amount be payable to the State Treasury or refunded on some basis to the end use customer?
11. Should the commission require all COA and SPCOA telecommunications carriers, providing service in an area that overlaps the service area of an affiliate ILEC, to provide detailed quarterly reports on quality of service customer complaints in those overlapping areas?
12. Should the commission require ILECs with service areas also served by affiliate COAs or SPCOAs to provide detailed quarterly reports on quality of service customer complaints in those overlapping areas?

Proposed new §26.55 will replace §23.61(f) of this title as it pertains to service observing equipment.

There were no substantive changes to this section.

John Mason, Attorney, Legal Division, 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.

John Mason has determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of enforcing the sections will be the assurance of minimum quality of service standards for consumers. There will be no effect on small businesses or micro-businesses as a result of enforcing these sections. The anticipated economic cost to telecommunications utilities who are required to comply with the proposed changes will be the cost of funding network upgrades to meet enhanced service quality standards.

John Mason 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 §2001.002.

The commission staff will conduct a public hearing on this rulemaking under Government Code §2000.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress

Avenue, Austin, Texas 78701, on Tuesday, January 11, 2000 at 9:00a.m. in the Commissioners' Hearing Room.

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 sections. The commission will consider the costs and benefits in deciding whether to adopt the sections. The commission also invites specific comments regarding the Section 167 requirement as to whether the reason for adopting §23.61(c)-(f) continues to exist. All comments should refer to Project Number 19666.

The 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 §55.001, relating to general standards in the provision of service by a public utility; §55.002, relating to commission authority concerning standards in the regulation of telecommunications services; and §55.008, relating to improvements in service by a public utility.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 55.001, 55.002, and 55.008.

§26.52. Emergency Operations.

- (a) Each dominant certificated telecommunications utility's (DCTU) central office not equipped with permanently installed standby generators shall contain as a minimum four hours of battery reserve without voltage falling below the level required for proper operation of all equipment. It is also essential that all central offices have adequate provisions for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on short notice.
- (b) In exchanges exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.

§26.53. Inspections and Tests.

- (a) Each dominant certificated telecommunications utility (DCTU) shall adopt a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and rendition of safe, adequate, and continuous service.
- (b) Each DCTU shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities. The actual transmission performance of the network shall be monitored in order to determine if the service objectives in this chapter are met. This monitoring function shall include, but not be limited to, circuit order tests prior to

placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic noise tests of a sample of customer loops in each exchange, and special transmission surveys of the network.

- (c) Each central office serving more than 300 customer access lines shall be equipped with a 1,000 +/- 20 hertz, one milliwatt test signal generator and a 900 Ohm balanced termination device wired to telephone numbers so that they may be accessed for dial test purposes. Each DCTU shall advise the commission of the numbers assigned for these test terminations.

§26.54. Service Objectives and Performance Benchmarks.

- (a) This section establishes service objectives that should be provided by a dominant certificated telecommunications utility (DCTU), as applicable. The section outlines performance benchmark levels for each exchange. If service quality falls below the applicable performance benchmark for an exchange, that indicates a need for the utility to investigate, take appropriate corrective action, and provide a report of such activities to the commission. The objective service levels are based on monthly averages, except for dial service and transmission requirements, which are based on specific samples. DCTUs shall make measurements to determine the level of service quality for each item included in this section. Each DCTU shall provide the commission with the measurements and summaries for any of the items included herein on request of the commission.

Records of these measurements and summaries shall be retained by the DCTU as specified by the commission.

(b) **One-party line service and voice band data.**

- (1) One-party line service will be made available to all subscribers of local exchange service upon request.
- (2) All open wire transmission media shall be replaced with more reliable and better quality transmission media by the end of 1998, unless otherwise exempted by the commission. Any utility that obtained an exemption from this requirement shall file a report with the commission on the status of its open wire replacement program by March 1, 2000, and if all open wire replacement is not complete by that date, every three months thereafter until the replacement program is complete.
- (3) All switched voice circuits shall be adequately designed and maintained to allow transmission of at least 14,400 bits of data per second when connected through an industry standard modem (ITU-T V.32bis or equivalent) or a facsimile machine (ITU-T V.17 or equivalent), by the end of 2002. This upgrade will be made at no charge to the individual customer.
- (4) Within 180 days of the effective date of this section, a DCTU may request a waiver from the requirements of paragraph (3) of this subsection. The waiver request may be granted only if the commission determines that all of the following requirements have been met.

- (A) The cost to the DCTU of implementing the provisions of paragraph (3) of this subsection exceeds the public benefit.
- (B) The DCTU has submitted by June 30, 2000, a reasonable implementation plan stating for each exchange when all switched voice circuits within that exchange shall be adequately designed and maintained to allow transmission of at least 14,400 bits of data per second when connected through an industry standard modem (ITU-T V.32bis or equivalent) or a facsimile machine (ITU-T V.17 or equivalent).
- (C) The DCTU has submitted proposed tariff sheets which provide that:
 - (i) upon request by a customer, the DCTU will upgrade the customer's switched voice circuits to allow transmission of at least 14,400 bits of data per second when connected through an industry standard modem (ITU-T V.32bis or equivalent) or a facsimile machine (ITU-T V.17 or equivalent);
 - (ii) the upgrade will be made at no charge to the individual customer; and
 - (iii) the upgrade request will be completed within the time period allowed for a service order for regular service installation pursuant to subsection (c)(1)(B) of this section.
- (D) The DCTU has agreed to provide an on-going customer education program, acceptable to the commission, which assures that the DCTU's customers are aware of the availability of the service quality upgrade.

(c) The DCTU shall comply with the service quality objectives established below in providing the basic telecommunications service to its end-use customers. The DCTU shall file its service quality performance report on a quarterly basis. The report shall include its monthly performance for each category of performance objective and a summary of its corrective action plan for each exchange in which the performance falls below the benchmark. Additionally, the corrective action plan shall include, at a minimum, details outlining how the needed improvements will be implemented within three months and result in performance at or above the applicable benchmark.

(1) **Installation of service.** Unless otherwise provided by the commission:

(A) Ninety-five percent of the DCTU's service orders for installing primary service shall be completed within five working days, excluding those orders where a later date was specifically requested by the customer. Performance Benchmark
Applicable for Corrective Action: If the performance is below 95% in any exchange area for a period of three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchanges or wirecenters.

(B) Ninety percent of the DCTU's service orders for regular service installations shall be completed within five working days, excluding those orders where a later date was specifically requested by the customer. This includes orders for primary and other services, installations, moves, or changes, but not complex services. Performance Benchmark for Corrective Action: If the performance is

below 90% in any exchange area for a period of three consecutive months the DCTU shall provide a detailed corrective action plan for such exchanges or wirecenters.

- (C) Ninety-nine percent of the DCTU's service orders for service installations shall be completed within 30 days. Performance Benchmark for Corrective Action: If the performance is below 99% in any exchange area for a period of three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or wirecenter.
- (D) One-hundred percent of the DCTU's service orders for service installations shall be completed within 90 days.
- (E) Each DCTU shall establish and maintain installation time commitment guidelines for the various complex services contained in its tariff. Those guidelines should be available for public review and should be applied in a nondiscriminatory manner.
- (F) The installation interval measurements outlined in subparagraphs (A) – (D) and (H) of this paragraph shall commence with either the date of application or the date on which the applicant qualifies for service, whichever is later.
- (G) The DCTU shall provide to the customer a due date on which the requested installation or change shall be made. If a customer requests that the work be done on a regular working day later than that offered by the DCTU, then the customer's requested date shall be the commitment date. If a premises visit is

required, the DCTU shall schedule an appointment period with the customer for morning or afternoon, not to exceed a four-hour time period, on the due date.

If the DCTU is unable to keep the appointment, the DCTU shall attempt to notify the customer by a telephone call and schedule a new appointment. If unable to gain access to the customer's premises during the scheduled appointment period, the DCTU carrier representative shall leave a notice at the premises advising the customer how to reschedule the work.

- (H) Ninety percent of the DCTU's commitments to customers for the date of installation of service orders shall be met, excepting customer-caused delays.

Performance Benchmark Applicable for Corrective Action: If the performance is below 90% in any exchange area for a period of three consecutive months, the DCTU shall submit a list of missed commitments to the commission and provide a detailed corrective action plan for such exchange or wirecenter.
- (I) The installation interval and commitment requirements of subparagraphs (A) - (D) and (H) of this paragraph do not include service orders either to disconnect service or to make only record changes on a customer's account.
- (J) A held regrade order is one not filled within 30 days after the customer has made application for a different grade of service except where the customer requests a later date. In the event of the DCTU's inability to so fill such an order, the customer should be advised and told when the DCTU can fulfill the

order. The number of held regrade orders shall not exceed 1.0% of the total number of customer access lines served.

- (2) **Operator handled calls.** DCTUs shall maintain adequate personnel to provide an average operator answering performance as follows for each exchange on a monthly basis:
- (A) Eighty-five percent of toll and assistance operator calls answered within ten seconds, or average answer time shall not exceed 3.3 seconds. Benchmark for Corrective Action: If the performance is below 85% within ten seconds (or if the average exceeds 3.3 seconds) at any answering location for a period of four days within any given month, the DCTU shall provide a detailed corrective action plan for such exchange or wirecenter.
 - (B) Ninety percent of repair service calls, calls to the business office, and other calls shall be answered within 20 seconds or average answer time shall not exceed 5.9 seconds. Benchmark for Corrective Action: If the performance is below 90% within 20 seconds or the average answer time exceeds 5.9 seconds at any answering location for a period of five days within any given month, the DCTU shall provide a detailed corrective action plan for such exchange or wirecenter.
 - (C) Eighty-five percent of directory assistance calls shall be answered within ten seconds or the average answer time shall not exceed 3.3 seconds. Benchmark for Corrective Action: If the performance is below 85% within ten seconds or if the average answer time exceeds 3.3 seconds at any answering location for a

period of four days within any given month, the DCTU shall provide a detailed corrective action plan for such exchange or wirecenter.

- (D) An "answer" shall mean that the operator, interactive voice system, or representative, is ready to render assistance and/or ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an "answer."
 - (E) DCTUs may measure answer time on a toll center or operating unit basis in lieu of measuring answer time in each exchange unless specifically requested by the commission.
- (3) **Local dial service.** Sufficient central office capacity and equipment shall be provided to meet the following requirements.
- (A) dial tone within three seconds on 98% of calls. For record-keeping and reporting purposes, 96% in three seconds during average busy season and/or busy hour shall be acceptable as complying with this requirement;
 - (B) completion of 98% of intraoffice calls (those calls originating and terminating within the same central office building) without encountering an equipment busy condition (blockage) or equipment failure;
 - (C) for every switch that serves customers, the availability factor for stored program controlled digital and analog switching facilities shall be 99.99%, or the total unscheduled outage for each switch shall not exceed 53 minutes per year.

- (D) A report detailing the cause and proposed corrective action for the local dial service measures, for any exchange that falls below the established performance objective level, must be submitted to the commission.
- (4) **Local interoffice dial service.**
- (A) Each DCTU shall provide and maintain interoffice trunks on its portion of the local exchange service network so that 97% of the interoffice local calls excluding calls between central offices in the same building are completed without encountering equipment busy conditions or equipment failures. For DCTUs' testing, record-keeping, and reporting purposes, DCTUs are not required to separate local dial service results from local interoffice dial service results unless specifically requested by the commission.
 - (B) The availability factor for stored program controlled digital and analog switching and interoffice transmission facilities for end to end transmission shall be 99.93%, or the total unscheduled outage shall not exceed 365 minutes per year.
 - (C) A report detailing the cause and proposed corrective action for the local dial service measures, for any exchange that falls below the established performance objective level, must be submitted to the commission.
- (5) **Direct distance dial service.** Engineering and maintenance of the trunk and related switching components in the toll network shall permit 97% completion on properly dialed calls, without encountering failure because of blockages or equipment irregularities. A report detailing the cause and proposed corrective action for the direct

distance dial service measure, for any exchange that falls below the established performance objective level, must be submitted to the commission.

(6) **Customer trouble reports.**

- (A) The DCTU shall maintain its network service in a manner that it receives no more than three customer trouble reports, excluding customer premises equipment (CPE) reports, per 100 customer access lines per month (on average). Performance Benchmark Applicable for Corrective Action: If the customer trouble report exceeds three per 100 access lines per month per exchange for a period of three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or wirecenter.
- (B) The DCTU shall provide to the customer a commitment time by which the trouble will be cleared. If a premises visit is required, the DCTU shall schedule an appointment period with the customer for the morning or afternoon, not to exceed a four-hour time period. When the DCTU cannot keep an appointment, the DCTU shall attempt to notify the customer by a telephone call and schedule a new appointment. If unable to gain access to the customer's premises during the scheduled appointment period, the DCTU representative shall leave a notice at the premises advising the customer how to reschedule the work.
- (C) At least 90% of out-of-service trouble reports on service provided by a DCTU shall be cleared within eight working hours, except where access to the

customer's premises is required but not available or where interruptions are caused by unavoidable casualties and acts of God affecting large groups of customers. Performance Benchmark Applicable for Corrective Action: If the performance is below 90% in any exchange area for a period of three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or wirecenter.

- (D) Each DCTU shall establish procedures to insure the prompt investigation and correction of trouble reports so that the percentage of repeated trouble reports on residence and single line business lines does not exceed 22% of the total customer trouble reports on those lines. Performance Benchmark applicable for Corrective Action: If repeat reports exceed 22% of the total customer trouble report in any exchange for three consecutive months, the DCTU shall provide a detailed corrective action plan for such exchange or wirecenter.

- (7) **Transmission requirements.** All voice-grade trunk facilities shall conform to accepted transmission design factors and shall be maintained to meet the following objectives when measured from line terminals of the originating central office to the line terminals of the terminating central office. A periodic report for central offices or exchanges as requested by the commission staff shall be provided by the DCTU, in order to demonstrate compliance with the following objectives.

- (A) **Interoffice local exchange service calls.** Excluding calls between central offices in the same building, 95% of the measurements on the network of a

DCTU should have from two to ten decibels loss at 1000+20 hertz and no more than 30 decibels above reference noise level ("C" message weighting).

- (B) **Direct distance dialing.** Ninety-five percent of the transmission measurements should have from three to 12 decibels loss at 1000+20 hertz and no more than 33 decibels above reference noise level ("C" message weighting).
- (C) **Subscriber lines.** All newly constructed and rebuilt subscriber lines shall be designed for a transmission loss of no more than eight decibels from the serving central office to the customer premises network interface. All subscriber lines shall be maintained so that transmission loss does not exceed ten decibels. Subscriber lines shall in addition be constructed and maintained so that metallic noise does not exceed 30 decibels above reference noise level ("C" message weighting) on 90% of the lines. Metallic noise shall not exceed 35 decibels above reference noise level ("C" message weighting) on any subscriber line.
- (D) **PBX, key, and multiline trunk circuits.** PBX, key, and multiline trunk circuits shall be designed and maintained so that transmission loss at the subscriber station does not exceed eight decibels. If the PBX or other terminating equipment is customer owned and if transmission loss exceeds eight decibels the DCTU's responsibility shall be limited to providing a trunk circuit with no more than five decibels loss from the central office to the point of connection with customer facilities.

- (E) **Impulse Noise Limits.** The requirements for impulse noise limits shall be as follows:
- (i) For switching offices, the noise level count shall not exceed five pulses above the threshold in any continuous five minute period on 50% of test calls. The reference noise level threshold shall be less than: 54 dBrnC for Crossbar switch, 59 dBrnC for step-by-step switch, and 47 dBrnC for electronic or digital switch.
 - (ii) For trunks, the noise level count shall not exceed five pulses above the threshold in any continuous five minute period on 50% of trunks in a group. The reference noise level threshold shall be less than 54 dBrnCO for voice frequency trunks, and 62 dBrnCO for digital trunks.
 - (iii) For loop facilities, the noise level count shall not exceed 15 pulses above the threshold in any continuous 15 minute period on any loop. The reference noise level threshold shall be less than 59 dBrnC when measured at central office (CO), or referred to CO through 1004 Hz loss.

§26.55. Monitoring of Service.

Before any business telephone customer uses service observing equipment to monitor calls originated by or received at the business telephones for any reason, the customer must agree in writing to inform all employees that calls over the business telephones may be monitored.

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 27th DAY OF OCTOBER 1999 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**